Accountancy

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Professional Notes

The New Government's Programme

ALTHOUGH THE CONSERVATIVE MAJORITY IN THE NEW HOUSE OF COMMONS IS less than a score, it will probably prove large enough for Mr. Winston Churchill's Government to push ahead with most of the items in its programme. The pre-election policy statement of the Conservative Party stated that prominent among its plans were the repeal of the Iron and Steel Nationalisation Act, the removal of the 25-mile limit of operation of private road hauliers, the scrapping of steps to bring within the scope of the Regional Boards the transport services now run by local authorities and companies, the reopening of the Liverpool Cotton Exchange and the transfer to private dealers of food and raw materials now traded in by the State. A Central Electricity Board and Electricity Commissioners would be restored and municipalities and companies would be allowed to put forward their claims to re-enter both the electricity and the gas industries. In civil aviation some admixture of private enterprise with the State corporations was to be expected. In most nationalised industries, particularly coal and electricity, greater decentralisation was to be introduced.

The laws of leasehold and of rent restriction were to be reviewed; the Town and Country Planning Act of 1947 was to be examined with the aim of changing its system of development charges and deferred compensation; and the Local Government Act of 1948 was also to be overhauled.

In the field of finance the new Government's stated policy is to reduce the total of public expenditure; to modify the food subsidies, but apparently not to reduce their net total; and to restrict the supply of money and credit, particularly by greater readiness to increase interest rates. Dividend limitation will certainly be abandoned, but an Excess Profits Tax is to take its place. We comment upon this last change in our Editorial article on page 406.

Accountant M.P.s

We congratulate the following members of the accountancy profession upon being returned to Parliament in the General Election.

Commander T. D. Galbraith, C.A., Conservative, Pollok, Glasgow;

Sir J. Stanley Holmes, F.C.A., National Liberal, Harwich;

Mr. Roland Jennings, F.C.A., Conservative and Liberal, Hallam Division of Sheffield;

Mr. A. E. Marples, A.S.A.A., Conservative, Wallesey;

Mr. G. P. Stevens, F.C.A., Conservative, Langstone Division of Portsmouth.

In addition, 17 members of the main accountancy bodies were unsuccessful candidates in the elections.

All five of the successful accountant candidates were members of the last Parliament. Mr. John Diamond, F.C.A., Labour, who was also a member, was defeated in the Blackley division of Manchester.

International Congress on Accounting

The Council of the Sixth International Congress on Accounting, 1952, has appointed Sir Harold Gibson Howitt, G.B.E., D.S.O., M.C., F.C.A., a past-President of the Institute of Chartered Accountants in England and Wales, as President of the congress to be held in London in June, 1952. It has also appointed Mr. Charles Percival Barrowcliff, F.S.A.A., President of the Society of Incorporated Accountants

and Auditors, as vice-President of the congress.

Sir Harold Howitt is a partner in the firm of Peat, Marwick, Mitchell & Co. He was chairman and deputy-chairman of British Overseas Airways Corporation from 1943 to 1948 and a member of the tribunal on assessment of compensation to colliery owners in 1946. Mr. Barrowcliff is senior partner in the firm of C. Percy Barrowcliff & Co., Incorporated Accountants, of Middlesbrough, Newcastle and Leeds.

Companies in 1950

The Board of Trade, in its annual report on companies (H.M. Stationery Office, price 9d. net), states that the number on the registers at December 31, 1950, was 261,690, representing a net increase of 3,425 during the year. The total paid-up capital of companies having a share capital increased from £5,948 million to £6,096 million. But registrations of new companies continue to decline: from 25,217 in 1946 the numbers have fallen in successive years to 21,753, 16,344, 14,448, and 13,906. The total nominal capital of the new companies was £74·5 million, about 10 per cent. less than in 1949, and only three (compared with eight) had a nominal capital of £1 million or over.

The number of public companies continues to decline, and that of private companies to increase. Nearly 60 per cent. of private companies on the register are exempt private companies.

Companies removed from the registers numbered 10,507, including 2,540 wound up voluntarily or under supervision of the court, and 7,953 struck off as defunct companies under section 353 of the Companies Act, 1948. Twenty-eight were restored to the registers.

Eight cases were outstanding at the beginning of the year in which the Board of Trade had appointed inspectors, and eight further appointments were made. The inspectors made their reports in six cases, and in two others proceedings were instituted, one resulting in the acquittal of the defendants and the other in convictions of two directors and acquittal of the auditor.

Two hundred and eighty-six prosecutions by the Board resulted in 247 convictions, more than half being for failure to file annual returns or failure to keep a register of directors and secretaries. Fifty voluntary liquidators were convicted for failure to file accounts.

Since July 1, 1948, the Board of Trade has authorised for appointment as auditors 403 persons who are not members of the recognised bodies of accountants. Of these 191 had overseas qualifications, 198 were in practice in Great Britain before August 6, 1947, and 14 were considered to have obtained adequate knowledge and experience from employment by a member of a recognised body.

Accountants' Day in Amsterdam

Each year the Netherlands Institute of Accountants holds a one day conference, when it entertains representatives of the Government, public authorities, the judiciary, universities, Chambers of Commerce and overseas accountancy bodies. This year, Accountants' Day was held in Amsterdam on October 6. The guests included representatives of accountancy bodies of England, France, Germany, Belgium, Denmark, Sweden and Finland. The Society of Incorporated Accountants was represented by its vice-President, Mr. Bertram Nelson, F.S.A.A.

The two subjects discussed were the economic problems of the Netherlands (with a paper by Dr. K. R. Van der Mandele, President of the Rotterdam Chamber of Commerce) and the requirements to be answered by the profession in fulfilling its function in business (introduced by Professor Dr. H. J. Van de Schroeff). The advantages of Accountants' Day, in bringing together members of the Netherlands Institute to discuss two papers of national importance, in informing other professions of developments in accountancy and in proving the community of interest of accountants in many countries, were again amply demonstrated.

Nationalised Steel Accounting

Iron and steel companies which last February came under the control of the nationalised Iron and Steel Corporation have been told that they must change their accounting years to end on the last Saturday in September. The change is necessary because the Corporation is required by the nationalising Act to present consolidated accounts for the whole of the industry.

The Corporation has handed to the companies a standard form of accounts and a manual setting out the standard accounting procedure.

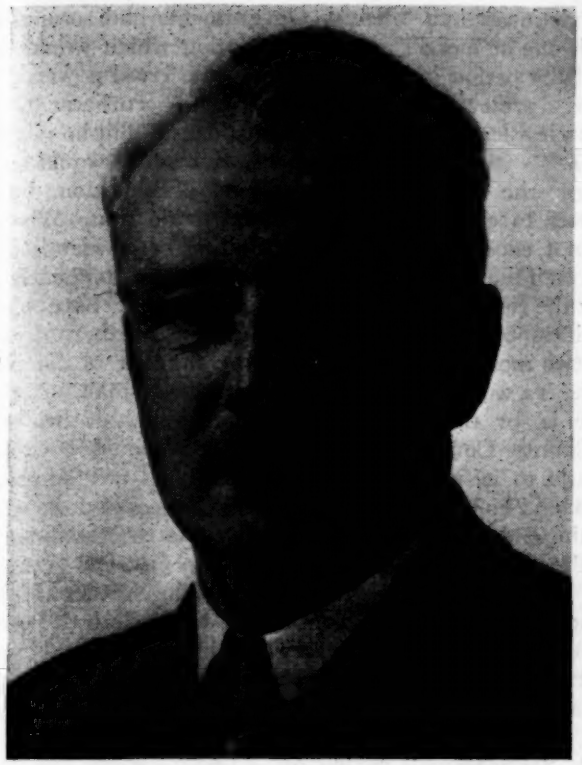
It remains to be seen how the Conservatives' success at the General Election, involving the reversion of the industry to private enterprise, will affect this standardisation of accounting dates and methods, which, though a technical improvement and economical in the long run, is costly in time and man-power in the initial stages.

The Institute's Autumnal Meeting

The Institute of Chartered Accountants in England and Wales held its twentieth autumnal meeting in Torquay last month. In his opening address, entitled "Really Violent Inflation," Mr. Charles W. Boyce, C.B.E., F.C.A., the President of the Institute, said that the increase in the monetary value of stocks and of debts due from customers, caused by the rise in prices, had made inroads into the cash resources of many undertakings. Profits might have been good and dividend distributions modest, but after satisfying the demands of the tax collector, there was insufficient to finance the higher values of stocks and other current assets. Assistance from the banks was therefore necessary but at the same time, the official policy was to impose a tighter check on credit. If, he said, banking facilities to an undertaking of undoubted stability were curtailed, the only effect would be a reduction in the volume of trade and consequential loss to the country.

Mr. Boyce said that there had been a certain amount of Press comment on the relatively low percentage of passes in the Institute examinations since the war, and it had been suggested that a higher standard from candidates was expected by the examiners. That was not so. No alteration had been made in the method of marking the papers. He thought the lower percentage of passes was purely an aftermath of the war and was by no means confined to the Institute.

A paper on "The Effect of Taxation upon Industry and the Individual" was read by Mr. E. G. Turner, M.C., F.C.A.,



MR. C. V. BEST, F.S.A.A.

MR. W. G. A. RUSSELL, F.S.A.A.

one on " The Valuation of Holdings in Private Limited Companies for Probate Purposes " by Mr. T. A. Hamilton-Baynes, M.A., F.C.A., and one on "The Valuation of Holdings in Private Limited Companies for Purposes other than Probate " by Mr. W. G. Campbell, B.A., F.C.A. We intend to comment on the last two papers in the next issue of ACCOUNTANCY.

New Council Members of the Society

It is with pleasure that we congratulate two Fellows of the Society of Incorporated Accountants upon being elected to the Council of the Society during October. They are Mr. C. V. Best, F.S.A.A., and Mr. W. G. A. Russell, F.S.A.A., whose photographs we reproduce on this page.

Mr. C. V. Best is a partner in Allen, Baldry, Holman and Best, Incorporated Accountants, of London. He qualified as an Associate of the Society in 1924 and became a Fellow in 1930. In 1927 he became a partner in Lawrence, Hann and Best; in 1939, when that firm became in his sole control, it was amalgamated with Mr. Best's present firm. He was chairman of the Incorporated Accountants' London and District Society from 1946 to 1948, is a member of the Incorporated Accountants' Research Committee, and last month was installed as Master of Incorporated Accountants' Lodge. Mr. Best has been a frequent and valued contributor to ACCOUNTANCY, usually in unsigned articles.

Mr. W. G. A. Russell was admitted as an Associate of the Society in 1931 and became a Fellow in 1942. He commenced practice in 1931, founding his own firm, which took in new partners and expanded rapidly. He now practises from offices in Birmingham and London in the two firms, W. G. A. Russell and Co., and J. Durie Kerr, Watson and Co. Mr. Russell is a director of a number of companies. He was President of the Incorporated Accountants' Birmingham and District Society from 1949 to 1951. He is actively interested in symphonic and choral music and is chairman of the Executive Committee of the City of Birmingham Symphony Orchestra; previously he was chairman of the City of Birmingham Choir.

The Accountancy Profession in Germany

The *Institut der Wirtschaftsprüfer*, the organisation of German Public Auditors, celebrated its twentieth anniversary by a congress in Düsseldorf from October 3 to 5. It was attended by more than 300 members and 20 guests from other European countries, including Great Britain.

The first day was devoted to the Public Accountants' Bill. During the Hitler régime the profession of Public Auditor became separated from that of " Tax Adviser," although many Public Auditors held both qualifications. The Public Auditors now aim at having all members of their organisation officially recognised as Tax Advisers. The Public Accountants' Bill, drawn up by the German Ministry of Economics, in large degree follows the model of the Co-ordination Bill drafted by the British professional bodies some years ago.

In a discussion on the design of accounts, most speakers urged that the requirements of the law, which already go far beyond those of the British Companies Act, should be made even more

stringent. No doubt this demand derives in part from the power of the German tax authorities to reject accounts not based on "properly kept" books, but it appears also to spring from a psychological attitude, aggravated during the Hitler years, of subservience to authority. One speaker argued that the accounts of sole traders, partnerships and private companies should be controlled by the State. This led to the point being made that assets owned by the sole trader or partnership outside the business should be shown in the business accounts, possibly by way of notes.

A further paper dealt with the connection between taxable profits and commercial profits—a connection which is much closer in Germany than in this country. Deferred repairs and stock valuation were topics in which much interest was shown, but the replacement cost basis of depreciation was not even mentioned.

On the whole the congress was an impressive gathering which proved that the accounting profession has firmly established itself in Germany since it was first officially recognised 20 years ago.

Protection on Being Called Up

Protection of the kind extended to members of the Forces during the war is given to those now called-up to the Services. It is contained in the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951.

The Courts are to give heed to individual circumstances, and only with their leave can a creditor, even if judgment has been obtained, recover by a judgment summons, proceed by the levying of distress, take possession of property, appoint a receiver, re-enter upon land, realise a security, make forfeit a deposit or institute proceedings for foreclosure or the recovery of possession of mortgaged property. Members of the family and guarantors of the person called up are similarly protected if their ability to meet obligations has been affected by the call-up. Since the County Courts already had power to protect debtors against whom money judgments are given, the provisions do not apply to these Courts.

If the period of service is three months or more, protection is unconditionally given against eviction from a rented residence in which one or more dependants are living. If the period is less than three months, protection against eviction is given unless leave of the Court is obtained.

For furnished lettings, the Rent Tribunals are given power to extend the tenancy by periods not exceeding three months at a time, even if there has been no application to fix the rent.

If the tenancy of business premises expires during or within two months of the tenant's service, and he is a working proprietor whose service is for three months or more, the County Court, upon an application made to it, can grant a new tenancy, to extend no more than four months from the end of the service, and can fix the rent and conditions.

Public authorities and trustees of private pension schemes can for superannuation purposes treat the period of service as though it were a continuation of ordinary employment. This applies to all except National Servicemen, whose rights are already provided for in earlier Acts.

Industrial life policies are not to be forfeited through non-payment of premiums due to service and policies so forfeited before the passing of the Act are to be reinstated. It may be added that although ordinary life policies are outside the Act, the offices have said they will treat sympathetically assured persons who, because they are called-up, have difficulty in meeting their premiums.

Company Dividends in Northern Ireland

Though the result of the General Election makes dividend limitation a dead letter, it is of interest to know that Northern Ireland would not in any event have followed Great Britain in the proposals.

The Minister of Finance for Northern Ireland announced at a dinner given by the Belfast and District Cost and Works Accountants early in October that he had been asked by various bodies to introduce legislation making Great Britain's proposed limitation of dividends inapplicable to companies registered in Northern Ireland. He said that the proposed limitation would not affect Northern Ireland: successive British Governments had scrupulously avoided legislation which would derogate from the transferred powers of the Northern Ireland Parliament. It followed that the only Bill he might be called upon to introduce would be one enacting dividend limitation, but he did not intend to do that. Whatever effect the limiting of dividends might have on inflationary tendencies in Great Britain, it could have only a negligible effect in Northern Ireland, seeing that the number of companies registered there was small. Also, he thought that few, if any, of their larger industrial concerns would be able to step up dividends in any substantial degree, and any that could do so would, he hoped, continue the "self-denying ordinance" of the past few years.

Unemployment in Northern Ireland, he continued, was relatively greater than elsewhere in the United Kingdom and they should avoid anything which discouraged the investment of capital there; he was not thinking of the return on existing capital but of the inducement which might be offered to attract new money.

Organisation in the Factory

"Nothing works in a factory except through human agency." This was the keynote of a paper on "Factory Organisation and Management," given by Mr. F. C. Lawrence, B.SC. TECH., F.C.W.A., at the summer school of the Institute of Cost and Works Accountants. He observed that most of the largest factories in the country had developed to a fine degree their methods of production and of organisation and management. But the medium-sized and smaller firms were generally understaffed, or had not enough people with wide vision. The change of heart that would overcome their inertia could not be made from outside, and no amount of reports on what America was doing would accomplish it.

To-day profits were made easily, and the incentive to improve management and productive methods was lacking. To remedy overstocking and extravagance when conditions became severe would be beyond the skill of many companies now relatively prosperous. The advantages to be gained by better organisation were not appreciated—nor was the fact that the uncomfortable

process of reorganisation must be faced if the business was to survive under normal conditions.

Strict selection was essential in the choice of administrators and managers. Technicians were not usually good managers. It was often unwise to supplant unsuitable administrators, for at least they had useful experience; it might be better to make additional appointments of trained people as deputies to take over the executive duties.

No manager or cost accountant could perform his duties at a desk. Figures alone were impersonal and misleading. Many concerns had no certain means of finding the facts and did not even appreciate the need to know them. An average was not a fact. Output varied between individuals and at different times of the day or week. Study of these variations would show that some workers needed training and some were unsuitable, while changes might be required in seating accommodation, lighting and ventilation, or supervision. Fact-finding, objective and precise, must be the source of standard costs, production control, incentives and other essentials of control.

Owners' Allowances Against Rates

It is well known that owners of property let on a weekly tenancy may obtain a valuable concessional relief for Schedule A purposes to cover the extra costs of management, temporary void periods, etc. By this concession only 50 weeks' rent is taken into account in arriving at the annual assessment. A correspondent suggests that the law relating to the rating of owners and the collection of local rates by them may not be so widely known, and he draws attention to certain allowances which may be obtained when rating authorities exercise their compulsory or permissive powers to recover rates from the owners of certain classes of properties.

Generally, rates are assessed upon an occupier; primarily the owner is not rateable. However, under the Rating and Valuation Act, 1925, as amended in 1928, 1932 and 1937, the rating authority may require the owners of any hereditaments, the rateable value of which does not exceed £13, to be rated (compulsorily) instead of the occupiers while the property is occupied. But in consequence the authority must make an allowance of 10 to 15 per cent. of the amount of rates paid over before a specified date. Owner-occupiers may benefit in certain circumstances.

Further, agreements in writing may be made with owners for the payment of rates on property the rents of which become payable or are collected at intervals shorter than quarterly—irrespective of rateable value—whereby: (*a*) if the owner undertakes to pay rates, whether the property is occupied or not, he is to be allowed a maximum allowance of 15 per cent.; (*b*) if he takes responsibility for the rates so long as the hereditament is occupied he is to be allowed a maximum discount of 7½ per cent.; (*c*) if he only acts as collector of rates due from the occupier, he is to be allowed a maximum rebate of 5 per cent. It is interesting to note that, during their tenure, agreements continue to be binding on new owners in the event of changes in ownership.

This " compounding " system is not reciprocal: an owner cannot claim the right, but it is exercised by the rating authority at its discretion. The rating authorities benefit by a reduction in sums written-off as irrecoverable and by a saving in clerical work. Yet the loss of rate income incurred from allowances on the full scale is considerable, especially when, as at present, empty properties are practically non-existent. It is not surprising, therefore, that although compulsory rating of owners of property of up to £13 rateable value is widespread, comparatively few rating authorities enter into voluntary agreements.

These notes give a brief indication of the position outside London. Other provisions (for example, the Poor Rate Assessment and Collection Act, 1869) apply in London, and Private Acts of Parliament may affect the position in some areas. Further, the Local Government Act, 1948, will change the " ceiling " limits when the new valuation lists come into operation.

Proposed Professional Qualification in Management Accountancy

Members of the Institute of Cost and Works Accountants have before them a scheme to establish the Fellowship grade of the Institute as a qualification in management accountancy. When the scheme is approved, the Institute will award two grades of membership, Associate Membership, as at present, for a qualified cost accountant, and Fellow Membership for a qualified management accountant. As in the past, both grades of Membership will be open to members of other recognised professional accountancy bodies.

Fellow Membership under the scheme will be open to all Associate Members of the Institute and to members of other accounting organisations, provided they pass the Institute's Fellowship examination in those subjects not adequately covered by their own examining bodies and comply with the other conditions laid down. These conditions prescribe a minimum age limit of 26 years, and evidence of five years' experience in a responsible position in management accountancy and of being currently engaged in such a position.

SHORTER NOTES

Royal Commission Sits in Incorporated Accountants' Hall

The Royal Commission on Taxation is holding its meetings on November 1 and 2, in Incorporated Accountants' Hall, the headquarters of the Society of Incorporated Accountants, and will, it is understood, also hold its future sessions in the Hall.

P.A.Y.E. and Overtime

When two directors of a firm of building contractors were found guilty in the Central Criminal Court last month of making false statements to the Inland Revenue with intent to defraud, having paid overtime to workmen without deducting P.A.Y.E., defending counsel said the practice was widespread in the building trade. He added that other prosecutions were pending.

The Half-Millionth Company

The 500,000th company registration in England and Wales was made last month. The first quarter of a million registrations took 60 years, until 1930, but the second quarter of a million took only 21 years. Registrations were greatly speeded up when the Companies Act of 1907 permitted the formation of private companies, but since then there has been further acceleration. Up to 1908, it took 46 years to register 100,000 companies; subsequent 100,000s took 16, 11, 10 and six years respectively.

ACCOUNTANCY

FORMERLY THE INCORPORATED ACCOUNTANTS' JOURNAL ESTABLISHED 1889

The Annual Subscription to ACCOUNTANCY *is 17s. 6d., which includes postage to all parts of the world. The price of a single copy is 1s. 6d., postage extra. All communications to be addressed to the Editor, Incorporated Accountants' Hall, Temple Place, Victoria Embankment, London, W.C.2.*

What Kind of E.P.T.?

So, INSTEAD OF DIVIDEND LIMITATION, we are to have our third tax on excess profits. The return of a Conservative Government makes it certain that one may cast aside for good one's copy of that much-criticised Command Paper, No. 8318, entitled *Control of Dividends*. Its ambiguities may be forgotten. Its pretensions to law-making are finally decried.

If the rate of tax were viciously high and if "excess profits" were harshly interpreted, even those who most vocally protested against dividend limitation might regret its being ousted by the new tax, while a moderate tax would be regarded by the business community as much preferable to Mr. Gaitskell's anomalous measure. Nevertheless, any raising of the high level of profit taxation, even if done in limited degree and moderate fashion, will be seen as a penalty on enterprise. And any third E.P.T., whatever its precise nature, will be held to share the defects of the first two, summarised by Mr. E. G. Turner, F.C.A., at the autumnal meeting of the Institute of Chartered Accountants only about a fortnight ago, in the following words:

> these taxes did immense harm to the economy of this country. They encouraged extravagance of all kinds, upset our carefully balanced wage structure and, by creating a disregard for "cost," forced prices up to unprecedented levels.

In the even more succinct language of an American commentator, an E.P.T. leads businesses to "expense the excess."

What can be said, in advance, about the E.P.T. to be brought in by the new Government? We know, from a Press conference given about three weeks before the elections, by Mr. R. A. Butler, the new Chancellor of the Exchequer, that "the tax would have to operate in the general way it has operated before." Further, the Conservative election statement tells us that the Government will be guided by a study of the American system, and Mr. Butler said, more specifically, that "past experience of some of the problems, and American experience of some of the reliefs, will have to be brought into any final plan we bring forward."

In the U.S.A. most businesses have standard profits (called a "credit") amounting to 85 per cent. of average earnings during the best three of the four years 1946-49, and pay the tax at 30 per cent. on earnings in excess of the credit. The British tax, one would think, should use base years and standard profits no worse than these, and since the high Profits Tax already operates the percentage rate might well be less. Let it not be overlooked, too, that the addition to standard profits of 8 per cent. of fresh "capital employed," provided by the second British E.P.T., was hardly a liberal allowance. In the American scheme the corresponding rate is fixed at 12 per cent., a more realistic assessment of what should be the "permitted" rate of return on new industrial capital in the conditions of to-day.

It is in the system of reliefs that the present American tax is most sharply to be distinguished from the British tax of World War II—and Mr. Butler's statement that experience of some of these reliefs will be taken into account in the framing of the new tax is significant. Broadly, the reliefs are extremely liberal by British standards, so far, at least, as their wording goes: little can be said concerning experience of them, for the American E.P.T. did not become law until last January. Some of the reliefs allow abatement of the current income in fixing the excess over the tax "credit"; for example, "abnormal" items of income may be deducted and earnings from hire-purchase sales may be brought into account on a very reasonable basis. The relief for additional capital employed (the "growth formula"), already mentioned, is adequate. In "abnormal" circumstances modifications of the base-period profits are allowed: a generous moderating of the tax. But the most extensive category of reliefs is that of the "general" ones, which fall in five groups. If the British tax were to take over the main features of these general reliefs, then indeed it would be a vastly different and more congenial measure than the E.P.T. we knew in 1939-46.

The five groups of general reliefs operate in the following conditions:

1. If there were abnormal events or circumstances which reduced income in the base period. The event or circumstance may be a physical one, such as a strike or fire, or economic, such as shortage of raw materials. The reduction in income need be only nominal;
2. If new products were produced for the first time in the base period and form a (defined) substantial part of current output;
3. If productive capacity, in a physical sense, was increased by more than stipulated proportions in the base period;
4. If the business is a new one;
5. If the business is in an industry which was depressed in 1946-48 (its profit-rate was less than 63 per cent. of the rate in 1938-48).

When one of these conditions holds, the business may build up its "credit," partly or wholly, by taking a percentage upon its capital employed, not the profit of the base year, the percentage being laid down by the Treasury for the industrial group in which the company falls. Much depends, it is clear, upon the percentages so fixed, but provisionally they range up to 25 per cent.

These general reliefs are, in a sense, an interesting elaboration of the system adopted for the first British tax on excess profits, the Excess Profits Duty of World War I, under which standard profits of the base period were in many instances arrived at *via* the application of varying rates of permitted return on capital which were laid down for a long list of industries. It would be a little quixotic if the third British tax on excess profits jobbed back to the first by way of the Atlantic Ocean.

Principles of Law

By ERNEST EVAN SPICER, F.C.A.

APART FROM JUDGES, JOURNALISTS AND POLICE OFFICERS, surprisingly few people understand how to use a notebook intelligently and with advantage to themselves.

It is, of course, true that most first-year students imagine they have mastered the art and invariably attend all lectures armed with a notebook and a fountain pen; but we who have enjoyed the privilege of scrutinising many of these notebooks know that they are mistaken. They fail to realise how difficult it is to listen to a lecture and, simultaneously, to summarise in long-hand what the learned professor is trying to teach them.

The human brain does not readily split itself into water-tight compartments and long practice is needed before it will permit us to spin two plates, at different speeds, at the same time. Have we not all endeavoured to convince young children how impossible it is to masticate roast mutton gracefully, while carrying on a running conversation?

Note-taking is an accomplishment which comes naturally to very few, and it is the exceptional man only who gains more than he loses by attempting it.

Mr. Samuel Pepys was, perhaps, the classic example of the perfect note-taker, and curiously enough, he used for this purpose a silver fountain pen, presented to him, on August 5, 1663, by that great statesman, Sir William Coventry.

This is probably the first reference in history to a fountain pen.

Mr. Greatheart, when a student, always made his notes after—rather than during—a lecture and in this manner cultivated a very retentive memory and laid the foundation of his valuable " library " of notebooks.

Perhaps the most important feature of this " library " is the very comprehensive index, which enables him, without any waste of time, to refresh his memory on any one of a multitude of different subjects, which may arise in the course of his professional activities.

Let us choose at random one of these notebooks and see whether we cannot find a few cases, dealing with important legal principles, which do not always receive the close attention which they merit.

We select for our first example, a case which illustrates the old saying that " He who comes into Equity must come with clean hands."

In his essay on " Maxims," the late Mr. Justice Darling makes the following terse comment on this particular aphorism:

> The utility of the Maxim is that he who goes in clean will come out less dirty than he who is soiled from the start; but, perhaps, having clean hands, it were better not to go into Equity at all.

The principle of law underlying the maxim is that a man who has been guilty of a dishonest action cannot look to obtain relief from the resulting consequences of that action in a Court of Equity.

ILLUSTRATION ONE

It may be said with truth that, from his youth upwards, Mr. Roger Gascoigne Whiting had caused his parents considerable anxiety. At his public school he was birched three times in one half for lying, cheating and stealing, and it was a miracle that he was not expelled from that ancient seat of learning.

His career at the university was equally undistinguished and when, clandestinely, he married Miss Barbara Bannister, the daughter of an obscure artist, the Whiting family felt convinced that his *descensus averni*, though sure, would assuredly not be slow.

Barbara, however, proved a very attractive, clever and vivacious young lady and very rapidly gathered round her an admiring circle of acquaintances—young and old. Moreover, she exercised a very steadying influence on her husband who, for the first time in his life, got his nose " right down to the grindstone."

This evidence of a " change of heart " eventually led to a reconciliation with the Whiting family and when, in the year 1919, old Sir Jeremiah Whiting died, Roger, the fourth son, found himself master of a fortune of some twenty-five thousand pounds.

He utilised part of this money in the extension of the small business which he had started, and the balance he invested in high-class securities. As a result of hard work the business prospered, and for some years heaven smiled on his efforts.

And then—the American slump set in, which quickly spread to Europe, casting its evil shadow on Mr. Roger Whiting; and the future outlook loomed very black indeed. Prompted by the instinct of self-preservation, he transferred into his wife's name investments to the value of nearly £20,000, and endeavoured, to the best of his ability, to curtail his business commitments.

For three long years he struggled hard to keep his head above water, but when he realised that the end was near, he decided that if he had to fail he might just as well fail

thoroughly while he was about it—so, casting prudence to the winds, he embarked on a wild speculation in cotton—of which he knew nothing—and the market rose to the occasion. The profit which he realised proved more than sufficient to meet his liabilities, and having joyfully wound up his business, he found himself once again free of debt and a gentleman of leisure.

This encouraging and wholly unexpected change of fortune caused Mr. Whiting to feel that, at long last, the moment had arrived when he might, with safety, instruct his wife to hand back the investments which—as a wise precautionary measure—he had transferred into her name.

One important consideration, however, had escaped his memory. During the years of depression and loss, the domestic relations had gradually become very strained. He had forced poor Barbara to deny herself every little luxury dear to a woman's heart, and he had cut down her " pin money " to a mere pittance, and although this, in itself, would not have troubled her in the very least, had Roger continued to play the game by her, he treated her as though she were the cause of all his misfortunes. Throughout the entire period she had done her best to remain cheerful and helpful and had even earned a few pounds by giving dancing lessons, but Roger had taken the money and had failed to thank her. And then, to crown all, he had had her Persian kitten put to sleep to save the price of cat's meat.

When, therefore, one morning at breakfast, he ordered her, in a very peremptory manner, to retransfer the securities, which she was " holding in trust " for him, she replied very quietly that she would consult that dear old gentleman, Mr. Greatheart, whom she had met at the house of their Uncle Lazarus and who had been so kind to her father.

We will draw a veil over the scene that followed. Barbara said nothing, but withdrew to her bedroom with a tingling cheek, and turned the key, rather than the other cheek. Neither threats nor entreaties would induce her to open the door, but later in the day, after packing a trunk, she left the house.

The next morning she received a long letter from her husband, who had guessed correctly whither she had gone. It is true that he apologised for striking her, but he endeavoured to excuse himself on the ground that she had exasperated him beyond endurance by her refusal to obey his instructions. He informed her that the only reason why he had " given " her the securities was to prevent them from being seized by his creditors in the event of his failure in business, a contingency which, at one time, had seemed highly probable. What he had done, therefore, was just as much for her benefit as for his own, and as the danger had now passed, it was clear that she was merely acting in the capacity of a trustee. He ended his letter by threatening that, unless she retransferred the shares without further argument, he would institute proceedings forthwith, to force her hand.

Barbara did not reply to this letter, but the next day Roger received a curt note from Mr. Greatheart stating that his uncle, Sir Lazarus Whiting, would like him to call at 4.30 p.m. on the following Thursday afternoon. Sir Lazarus received his nephew coldly and then requested Mr. Greatheart (who had been closeted the whole morning with Mr. Crawley, the solicitor) to explain the legal aspect of this unseemly case.

Mr. Greatheart pointed out that where a husband conveyed property into his wife's name, there was a presumption of law that he did so by way of advancement and that no resulting " trust " arose, even where there was no consideration—the position of a wife differing in this respect from that of a stranger.

He added that even if Mrs. Whiting had been a party to the scheme and had known that her name was being used as a " shield " against his creditors—which was not the case—the Courts would not raise a finger to help him because, being guilty of a fraud upon the law, to which he would be bound to submit, he would be relying on equity for relief against his own fraudulent act, and, as the defence in such a case would also be dishonest, between the two species of dishonesty the Court would not act, but would say " Let the estate lie where it falls."

When, after several weeks of heated arguments and consultations with lawyers, Mr. Whiting at last realised that he was fighting a lost cause, he offered to leave the country and start afresh in Canada, provided his uncle would assist him financially. This was ultimately arranged, subject to certain conditions, insisted upon by Mr. Greatheart, which would render any return to this country highly unprofitable to Mr. Roger Whiting.

Barbara, forgetful of the grievous wrongs which she had suffered, and impelled by a generous instinct, which did credit to her heart rather than to her head, expressed the wish to give her erring husband a large sum of money, but this Sir Lazarus resolutely refused to allow her to do.

Three years later news reached this country that Roger had been killed in a railway accident not far from Winnipeg.

Barbara remained a widow for over a year, during which time she received many proposals of marriage.

In the end she gave her hand and heart to an officer in the Guards and when last we heard of her, the twins were doing well.

Both of the babes were strong and stout
And, considering all things, clever,
Of that there is no manner of doubt,
No probable, possible shadow of doubt,
No possible doubt whatever.

* * * * *

Every professional accountant finds himself involved from time to time in problems which, seemingly, have very little connection with accountancy proper, but which, nevertheless, arise quite naturally out of his normal activities. Particularly is this the case where the accountant acts as financial adviser to his client and is, in consequence, consulted on a great variety of matters.

Mr. Greatheart's Notebooks contain particulars of many cases dealing with subjects quite foreign to the normal practice of a professional accountant, and this is due largely

to the fact that he works in such close and friendly co-operation with solicitors.

In turning over the pages of the index of the Notebook which we happen to have chosen, we observe, *inter alia*, references to such diverse matters as divorce, threatened libel actions, foreign exchange, marriage by proxy, blackmail, homicide, price control, patents, conscience money, Easter offerings payable at Michaelmas, domicile, pawn tickets and money paid under a mistake of law.

Out of this miscellaneous collection of subjects our first choice falls on that dealing with marriage by proxy. We are all aware that marriage by proxy is recognised by the law of many countries, not only in Europe but in the Americas, and we all appreciate how convenient this form of marriage may prove on occasion. It is not so generally known, however, that in certain circumstances it is also recognised by the law of England. It may be instructive, therefore, to consider the case to which Mr. Greatheart makes reference in his Notebook.

ILLUSTRATION TWO

As our readers are already aware, *Miss Selina Whiting married Mr. Silas K. Hackenheimer, the wealthy Brazilian banker, in the year 1932. There was, assuredly, no just cause or impediment why she should not do so, because, although he was thirty years her senior and suffered from a very weak heart and a very strong blood pressure, he was very rich.

At any rate, when she announced her engagement, she received the whole-hearted congratulations, not only of every member of the Whiting family, but also of all her friends, and—as might be expected—the Rev. Stephen Collins was the first to visit her in Belgrave Square to offer her his personal felicitations.

How then is it possible that a paragraph in the London newspapers of September 28, 1932, announcing that she had married Mr. Hackenheimer, should cause such consternation to the members of the Whiting family and such grave disquietude to the Rev. Stephen Collins?

Let us explain.

Selina was to have been married to Mr. Hackenheimer on June 13, 1932, so that they might sail together for Rio de Janeiro on the following afternoon. They had hoped to enjoy a brief honeymoon in Switzerland prior to leaving for Brazil, but alarming news regarding the health of Mr. Hackenheimer's aged mother rendered this impossible.

The wedding was to have been solemnised at the Church of St. Benedict and the Rev. Stephen Collins, assisted by his curate, the Rev. Cuthbert Crawler, was to have officiated. The reception was to have been held at the house of the bride's uncle and aunt, Col. and Mrs. Lucien Whiting, in Upper Grosvenor Street, but alas:

> The best laid schemes o' mice and men
> Gang aft a-gley
> An' lea'e us nought but grief and pain
> For promis'd joy.

Ten short minutes before she was due at the church, Selina, arrayed in all the splendour of her wedding apparel, stood proudly at the top of the marble staircase in Upper Grosvenor Street, and curtsied gracefully to her uncle, the Colonel, who had promised to give her away at the altar and who was waiting in the hall to escort her and her Aunt Lucy to the church.

The next moment she lay unconscious at the bottom of the marble staircase, suffering from severe concussion, a double fracture of the right leg and a broken collar-bone. She had inadvertently stepped on her Aunt Lucy's Persian cat; missed her footing and had been precipitated into the hall below.

All was chaos. The wedding had to be cancelled; Selina was taken in an ambulance to St. George's Hospital; the best man so far forgot himself as to give to Mr. Crawler the generous offering intended for Mr. Collins, and the unfortunate Mr. Hackenheimer was forced to leave for Brazil before his bride-to-be had recovered consciousness.

The only person who remained perfectly calm was Mrs. Lucien Whiting (Lucky Lucy), who informed the Rev. Stephen Collins that but for an intervention of Providence, her cat might have been injured.

Selina's convalescence was slow and it was not until September 28, 1932, that she was able, without discomfort, to take a stroll in the park with her sister Arabella.

On that very same day, there appeared in the London newspapers the paragraph announcing her marriage to Mr. Hackenheimer, to which reference has already been made, and which read as follows:

> On September 19, 1932, Miss Selina Whiting, spinster, of 25a, Belgrave Square, S.W.1, having executed a power of attorney in London, appointing Miss Minnie Hebron to act as her proxy, at the celebration of her marriage in Rio de Janeiro, was married to Mr. Silas Hackenheimer of that city.

This surprising intelligence created an immense sensation in the Whiting family and was discussed, in all its bearings, at a gathering hastily summoned by Sir Ambrose Whiting. Apart from members of the family, Sir Ambrose had commanded the presence of the Rev. Stephen Collins, Mr. Charles Greatheart, the accountant, and Mr. Crawley, the solicitor, with the request that each should express his views regarding the validity of this " amazing marriage."

The Rev. Stephen Collins did not hesitate to pronounce the alleged union not only irregular and invalid, but also utterly abhorrent to all right-thinking persons. In a very powerful and eloquent address, he urged them to cast out of the Whiting fold one who had so flagrantly defied Christian ethics, as expounded in the pulpit by himself and other godly men.

Mr. Greatheart, with much gentleness, remarked that, in his opinion, the question was one for the lawyer, rather than the theologian. Their first duty was to enquire, soberly and dispassionately, whether the marriage was, or was not, valid by the law of England, if valid where celebrated. He pointed out that the views of Mr. Collins —weighty though they doubtless were—did not necessarily interpret correctly the marriage laws of this country, or, for that matter, the convictions of all clergymen. Fortunately, their friend Mr. Crawley was present to guide and instruct them in matters involving legal difficulties, but, speaking for himself alone, and subject to correction by Mr. Crawley,

*See ACCOUNTANCY, *July, 1950, page 241.*

he felt convinced that the marriage was perfectly legal, and in no way contrary to public policy.

Mr. Crawley, who earlier in the day had taken the very prudent step of consulting that very eminent barrister, Mr. Stapleton, and had ascertained that marriages by proxy were recognised in Brazil, was thus able to confirm everything that Mr. Greatheart had said.

He called attention to the fact that, prior to her marriage, Mrs. Hackenheimer was an Englishwoman, domiciled in England; that she had executed a power of attorney in proper form, appointing Miss Minnie Hebron—an aged Negress, who for fifty years had been the faithful nurse and friend of the Hackenheimer family—to act as her proxy at the celebration of her marriage in Brazil and that all the legal requirements had been fulfilled with punctilious exactitude. He added that the celebration of marriage by proxy concerned the form of the ceremony and did not touch its essential validity. The validity of the form was a matter for the *lex loci celebrantionis*.

Having touched briefly on Brazilian law and quoted at length the dicta of learned Judges of the Probate, Divorce and Admiralty Division of His Majesty's High Court of Justice, interspersed with an appropriate number of Latin tags (which add such weight to all legal pronouncements), he declared the marriage of Mrs. Hackenheimer to be valid both by the law of England and by the law of Brazil.

It is satisfactory to note that when Mrs. Hackenheimer left this country on October 17, 1932, to join her husband in Brazil, the Rev. Stephen Collins was on the platform at Waterloo station to bid her God-speed.

To please Sir Ambrose Whiting, Selina had written a very beautiful and touching letter to Mr. Collins. She stated that both she and her husband would ever regard June 13, 1932, as the spiritual date of their marriage and that when they returned to England they would—in all humility—ask him to sanctify their union in any manner pleasing to himself.

No reference was made to the enclosure which accompanied this letter, but, as Mr. Collins remarked to his wife, after counting the notes, it convinced him, as nothing else could, that the repentance was genuine. In these circumstances it was right that she, who had confessed, should be shriven.

* * * * *

The third example which we select from the Notebook deals with a case which—perhaps unhappily—owing to Mr. Greatheart's tactful handling, never came before the Courts.

We use the word "unhappily" advisedly, not because we question the wisdom of Mr. Greatheart's action in forcing the interested parties to reach a settlement out of Court, but because it would have been interesting to note how far the Court would have followed the weighty and important judgment, delivered in the Court of Appeal, in the case of *Gules* v. *Saltire*, which was discussed many years ago with great learning by the late Mr. Justice Darling (as he then was) in his admirable essay on "Judges."

ILLUSTRATION THREE

Mr. Greatheart had been appointed senior executor and trustee under the will of the late Captain Charles Harker, of the Suffolk Heavy Infantry, who had married Miss Jeannette Whiting, the only daughter of Professor Julian Whiting, the well-known astro-physicist.

Captain Harker had lost his life in a vain attempt to save his colour-sergeant from drowning, off the coast of Whitby. His wife had predeceased him, leaving no issue, and thus under his will the gallant Captain had bequeathed the residue of his estate to her four brothers in equal shares subject to "an annuity to my father of £250 p.a. payable half-yearly."

Now, it so happened that for reasons with which we need not concern ourselves, Mr. and Mrs. Harker, senior, had never been married and as this unfortunate omission could no longer be remedied, owing to the fact that Mrs. Harker, senior, had died at the time of Charles' birth, the question arose as to whether the words "to my father" were sufficient to render the bequest of the annuity valid in law.

Mr. Wolf Whiting, the youngest of the four brothers, held that the ruling in *Gules* v. *Saltire* was conclusive, and there is little doubt that litigation would have resulted, had not Mr. Greatheart been able to persuade Sir Lazarus Whiting, as head of the Whiting family, to address a sharp warning to his great-nephew. In this letter, Sir Lazarus made it abundantly clear, that in the event of any action being taken, which could in any way be regarded by himself as detrimental to the best interests of the family as a whole, Mr. Wolf Whiting and his three brothers would be excluded from all future distributions which he might decide to make to his relatives during his life-time, and that by codicil, Sir Ambrose Whiting, Sir Reynolds Whiting, Sir Seymour Whiting and their great-aunt Augusta would cancel the legacies which, at the suggestion of Mr. Greatheart, they had provided for them under their respective wills.

This comprehensive assurance had a sobering effect on the four brothers and caused them to reconsider the policy which they had purposed to pursue. In due course, therefore, and even with some show of eagerness, they executed a document, drafted by Mr. Crawley, the solicitor, and settled by Mr. Stapleton of the Inner Temple, indemnifying the executors and trustees against liability of every possible nature, consequent upon the payment of the annuity to Captain Harker's "father."

As this case never came before the Courts, we feel justified in placing before our readers the judgment delivered in the Court of Appeal in the case of *Gules* v. *Saltire* to which we have already referred.

The facts in this interesting case, which are not very dissimilar to those in Captain Harker's case, are as follows:

John Sinister died, and under his will he made the following bequest:

> I give and bequeath my tortoise-shell snuff-box and one dozen of my silver tea-spoons—*videlicet* the fiddle-pattern ones—to my Father.

Now, John Sinister owed his existence to William Saltire, the respondent in the action, and a certain Mary Chevron,

who had never been married, but who, nevertheless, lived together as man and wife, and the question arose as to whether William Saltire was legally entitled to the property bequeathed, as father of the testator, John Sinister.

Unfortunately, Mr. Justice Darling did not state why the testator had taken the name of Sinister and it can only be assumed that, whereas the knowledge of his father's moral lapse was repugnant to him, his sense of filial duty remained unimpaired.

In the first action, a judgment in favour of William Saltire was delivered, but on appeal this was overruled.

The following is a summary of the judgment delivered by Sir W. M. James, L.J., in the Court of Appeal:

> Immoral, but not unusually immoral, has been the conduct of William Saltire; filial, legitimately filial, the testamentary behaviour of John Sinister.
>
> A son born in wedlock is enjoined by the law to support his father, if support be necessary to his declining years.
>
> But, the solicitous generosity of Sinister continues beyond the threshold of the tomb; and if Saltire must go without this filial aid, it is because by reason of his own unkind neglect, his genealogical tree is but *plantanus coelebs*, and must stand alone, till, covered with the hoary frosts of age, and beaten by the adverse winds of litigation, it fall, a ligneous ruin, to the ground.
>
> It is fully admitted that if Saltire be in law the father of Sinister he is then entitled to enjoy his substance; just as Saturn devoured his children, and as many an old man since has lived upon his son. But is the respondent the father of the testator? I declare, unhesitatingly, that he is not.
>
> A man born in such an informal way as John Sinister, is said by the law to be *nullius filius;* and I, if he be the son of nobody, find it not less difficult to point out the father of such a man, than to put my finger upon the mother of Pallas Athene.
>
> It is plain, it is palpable, that we are forbidden by the law to say that the testator was the son of any man. " The Common Law only taketh him to be a son whom the marriage proveth to be so," to quote the words of a treatise whose high authority is hardly equalled by its even higher antiquity.
>
> Here, however, there was no marriage at all; and therefore, I am of opinion, clearly and distinctly, that it is not allowable to say that John Sinister was a son. Consequently he was not even *nullius filius* but rather *nullus filius*. Now, though he clearly was not a son, I must proceed to consider whether, in law, he had a father.
>
> It is by no means sufficient that William Saltire was a father, as a conscript father, or a father of lies—colloquial expressions prove nothing but their own utter nonsense—he must have been John Sinister's father in law;* but, if this relationship were established, Sinister would be Saltire's son, and this is impossible, for he is not a son at all, as we have already very sufficiently seen.
>
> It is in no way material to inquire whether, in these circumstances, it was possible for the testator to have had a mother; but I am bold to declare that, were it necessary, I should most certainly hold that he was an orphan *ab initio*.
>
> It is gratifying, most gratifying, to know that John Sinister has found the conclusion to the long dilemma of his life, and that now, after the close of his isolated existence, he at last reposes in the arms of his only legitimate parent—his Mother Earth.

The decision of the Court below cannot be sustained. Our judgment is for the appellant—with the usual consequences.

**Note.*—Mr. Justice Darling's terse comment on this remarkable phraseology is as follows:

> " The learned Judge's language is here open to misapprehension. The position certainly cannot be maintained if we insert two hyphens—and perhaps is not unassailable if we omit them."

* * * * *

We now turn to the interesting principle of law which deals with payments made voluntarily under mistake.

It is often said that money paid under a mistake of law cannot be recovered, whereas if paid under a mistake of fact, it can be recovered. Neither statement, however, would appear to be strictly correct. Thus, where there has been fraud on the part of the payee, money can be recovered in cases where it was paid under a mistake of law. In the case of money paid under a mistake of fact, the mistake on the part of the payer must be as to a material fact which, if true, would have rendered the party under the mistake liable to pay the money. Further, it would seem that not only must there be mistake as to, or ignorance of, the fact on the part of the payer, but this must have affected his conduct. In other words, had he known the fact, he would not have made the payment.

This was emphasised by the Judge in the case of *Home and Colonial Insurance Co., Ltd.* v. *London Guarantee and Accident Co., Ltd.*

These two companies had entered into a participation agreement whereby the defendants ceded to the plaintiffs a certain proportion of the risks which they had underwritten. At a later date the Home & Colonial Insurance Co., Ltd., went into voluntary liquidation and claims amounting to £89,000 were lodged by the London Guarantee & Accident Co., Ltd., and admitted by the Liquidator of the Home and Colonial Insurance Co., Ltd.

Now it had been decided by the House of Lords that a liquidator is justified in rejecting claims under a reinsurance agreement in a case where no stamped policies had been issued. When, therefore, the liquidator of the Home & Colonial Insurance Co. became aware of this House of Lords' decision, he brought this action to recover the £89,000 paid to the London Guarantee & Accident Co., Ltd., as having been paid under a mistake of the fact that no stamped policies had been issued.

It is clear, however, that in this case not only was there a mistake of fact, but also a mistake of law. The liquidator was ignorant as to the fact that no stamped policies had been issued and he was also ignorant of the law which rendered stamped policies essential to any claim.

Presumably, said Mr. Justice Wright, if the liquidator had known the fact and the law he would not have paid the money, and very slight enquiry would have told him that no policies had been issued; but means of knowledge is not knowledge. Moreover, the liquidator had said that even if he had known that no policies had been issued, he would have regarded it as irrelevant and still have made the payment. His mind was ignorant both of the law and the fact, but the most important part of the ignorance was that of the law.

The onus was on a plaintiff claiming to recover money

paid under a mistake of fact to show that he was induced to pay by his ignorance of the fact and by nothing else, and there was no right to recover money paid under mistake of fact, where knowledge of the fact would not have affected his conduct.

* * * * *

Whether or not there is strict justice in the general rule whereby money paid under a mistake of law is irrecoverable, is open to doubt, but nevertheless, the rule is well settled.

Thus, where the agent of an insurance company misrepresented the law, and both he and the proposer were ignorant of the mistake, the proposer was unable to recover the premiums.

On the other hand, where the agent of an insurance company had told the proposer that a policy " would be all right " in spite of the fact that he knew that the proposer had no insurable interest, the company was made to repay the premiums.

There are other established exceptions to the general rule which may be classified as follows:

(A) *High-minded Principle*

It has been laid down that where money has been paid under a mistake of law to a trustee in bankruptcy or to some other officer of the Court in circumstances in which it would not be " honourable or highminded " for him to retain it, the money may be recovered in Equity.

Thus, in a case where a bankrupt's wife, with the knowledge of the trustee, had paid during the bankruptcy the premiums on a mortgaged policy on her husband's life, the trustee was ordered to repay the premiums so paid, out of the policy money, before he could retain the balance.

(B) *Money paid under Threat*

Where money is paid, under protest, in the face of a threat to seize goods, and it proves subsequently that the money was not legally due, and there was in consequence no legal right to seize the goods, the money can be recovered.

Thus, in a case where market tolls were paid in such circumstances, it was held that the plaintiff in the action could recover the money paid during the six preceding years.

(C) *Fiduciary Relationship*

Where money is paid, under a mistake of law, to another person with whom he is in fiduciary relationship, it can be recovered.

Thus, in a case where a trustee under a mistake of law overpaid a beneficiary, he was able to recover.

Two practical applications of the general principle should be noted by all professional accountants:

Income Tax

Money paid on an assessment, which has become final and binding and conclusive, in accordance with the state of the law as then recognised, cannot be recovered if the law be subsequently held, by a judicial decision, to be different.

Purchase Tax

The recent case of *Sebel Products, Ltd.* v. *Commissioners of Custom and Excise* bears out the principle.

Although the Judge held that in an appropriate case the Commissioners could refuse to refund money paid voluntarily under a mistake of law, in the case with which he was dealing the money was paid provisionally, subject to settlement of a point *sub judice*, and in consequence the liability had not become final and conclusive.

* * * * *

We now turn to a case with which Mr. Greatheart was very painfully associated and which he has treated in great detail in his Notebook.

The case is interesting, not only because of its general importance to professional accountants, but also because it illustrates that however brilliant a young man may be, enthusiasm and lack of practical experience may lead him to overlook dangers which, to an older and more world-wise practitioner, would be transparently obvious.

That Mr. Greatheart profited eventually as a result of this early misfortune there can be no doubt, but it is not everybody who can rise so triumphantly and so rapidly after so terrible an initial fall.

ILLUSTRATION FOUR

Shortly after he had started in practice as a professional accountant and had proudly erected his " brass plate " Mr. Charles Greatheart was appointed receiver for the debenture holders of Periwinkle Extractors, Ltd.

This was his first case of any importance and at one time threatened to be his last, and would have been so, but for the timely intervention of Providence in the shape of a true friend in need. But we will not anticipate.

The company had been floated at a time when a credulous public viewed every new issue through rose-coloured spectacles, and thus no difficulty was experienced in raising the initial capital. The directors entered upon an extensive advertising campaign and arranged for large quantities of the " extractors " to be manufactured. Suitable offices were taken on a 7, 14 and 21 years' lease and no money was spared in furnishing the main office, the waiting room and the board room.

All the optimistic estimates of the promoters, contained in the prospectus, were largely exceeded, save only in the matter of the sales, which proved very disappointing. Somehow, despite the manifold advantages of the extractor, as evidenced by the advertisements, the public obstinately continued to use the old-fashioned " pin," regardless of the grave risks involved thereby, and thus while the expenses and other outgoings soared, the sales and the liquid resources of the company steadily dwindled.

So tight did the cash position become, that the managing

director, Mr. Joseph Smallfellow, deemed it wise to agree to leave to the credit of his current account one-half of the emoluments to which he was legally entitled under his agreement with the company, until the sum undrawn reached £3,000, provided the other directors—all of whom were important shareholders—agreed to waive all their fees absolutely for a period of five years. This proposition was accepted and when, after the expiration of eighteen months, the sum standing to Mr. Smallfellow's credit reached the stipulated amount, he submitted a proposal whereby these undrawn emoluments should be satisfied by the issue to himself of 6 per cent. Debentures to the nominal value of £4,000, issued at a discount of 25 per cent. and carrying a floating charge on all the assets of the company. He further suggested that the Debentures should be redeemable at par at any time subject to two months' notice in writing by either party.

The initial reaction of the shareholders to this proposal was that the terms were " rather stiff," more particularly having regard to the fact that under his service agreement, Mr. Smallfellow was entitled to a commission of 10 per cent. of the net profits of the company as certified by the auditors. When, however, Mr. Smallfellow (having pointed out that he was, at any rate in theory, taking a " sporting risk " in the interests of the shareholders, seeing that, at the moment, the liabilities of the company exceeded the assets), voluntarily offered to waive his right to all commission on net profits for a space of three years, the resolution was carried unanimously, with musical honours.

Who could have foreseen that, within one month, the financial position of the company would have become so desperate as to force that " jolly good fellow," Mr. Smallfellow, to take drastic action? But so it was, and in due course Mr. Charles Greatheart was appointed receiver for the Debenture-holder.

Thereafter events moved rapidly. Within a fortnight of Mr. Greatheart's appointment, a petition for the winding-up of the company was presented and Mr. Godfrey Potter, of the firm of Potter, Potter & Potter, was nominated liquidator, his professional charges having been guaranteed by Sir Ambrose Whiting, the chairman of the company. Three days prior to the date of the winding-up order Sir Ambrose once again came to the rescue of the company by generously advancing a sum of £600, to enable the salaries of the staff to be paid, receiving by way of consideration a fully-paid Second Debenture for £600. Six months passed away, by which time Mr. Greatheart had succeeded in collecting a sum of £1,500, which he handed over to Mr. Smallfellow, as a first instalment of the amount due under the Debenture.

Everything looked very promising from Mr. Greatheart's point of view. He had received a very satisfactory offer for the lease of the office premises and for some of the furniture, and although, like Oliver Twist, he was asking for more, he felt quite convinced that within three months at the latest he would be able to finalise matters. Thus he parted from Mr. Smallfellow with happiness in his heart and with every hope of receiving in the very near future the 300 guinea fee which was to be the reward for services rendered.

Six weeks later he sat at his desk, with pen raised to sign his name to a cheque for £2,500 odd in favour of Mr. Joseph Smallfellow, when, of a sudden, a thought crossed his mind. Was he wise to settle with Mr. Smallfellow without consulting a solicitor? He referred the matter to Sir Ambrose Whiting, who advised him to see Mr. Charles Crawley, a young solicitor in whom he had great confidence. Mr. Crawley was delighted to meet Mr. Greatheart and promised to give him every assistance. He stated that it would, of course, be necessary for him to satisfy himself in the first instance regarding the validity of the Debenture, adding, however, that this would doubtless prove a mere matter of form.

Alas! for poor Mr. Greatheart and for his first important case as a professional accountant.

Many a time has he since looked back on this initial disaster with the words from " Lochiel's Warning " ringing in his ears:

> 'Tis the sunset of life gives me mystical lore
> And coming events cast their shadows before.

Mr. Crawley reported that as the Debenture had been issued within six months of the date of the winding-up order and as the company was admittedly insolvent immediately after the creating of the charge, it was invalid, and that unless Mr. Greatheart could persuade Mr. Smallfellow to refund the £1,500 which had already been paid to him, he, Mr. Greatheart, would be personally liable to make good the loss to the company.

He added, however, that these remarks did not apply to the Debenture for £600 issued to Sir Ambrose Whiting, because although it had been issued within the six months, and even after the presentation of the petition for the winding up of the company, but nevertheless, prior to the date of the winding-up order, the charge was created for the direct benefit of the company, namely, to enable the staff salaries to be paid. Thus, this Debenture was unquestionably valid.

These weighty words came as a great shock to Mr. Greatheart, and he lost no time in placing the full facts before Mr. Smallfellow. Unhappily that gentleman proved singularly unsympathetic, remarking that although he was naturally very sorry for Mr. Greatheart, the fact remained that the money had been paid to him under a mistake of law, and was therefore irrecoverable.

Mr. Greatheart thus found himself in a terrible position. He had not £1,500 in all the world and he realised full well that his whole future hung trembling in the balance. What could he do?

It was at this juncture that Providence intervened.

Sir Ambrose Whiting, who was an excellent judge of character, had been attracted by the young accountant and was convinced that a great future lay before him. He therefore asked Mr. Greatheart to meet him the following day at the offices of Mr. Crawley. That interview was the beginning of Mr. Greatheart's long and intimate association with the Whiting family and proved to be the foundation of his fortune. Sir Ambrose started the conversation by saying that he regarded himself as largely responsible for the trouble which had arisen, since he ought to have consulted Mr. Crawley on the affairs of the company at the

time when the petition was presented. Had he done so he would have known that Mr. Smallfellow's Debenture was invalid and would have warned Mr. Greatheart. The knowledge that his own Debenture was worth its face value had come to him as a great surprise, and as he had written off the advance as irrecoverable, he now proposed to ask Mr. Greatheart to accept the £600 as a contribution towards the loss. He further offered to lend Mr. Greatheart the remaining £900 free of interest.

Thanks largely to Sir Ambrose, who introduced him to many of his friends and relations, Mr. Greatheart quickly established himself in practice and, within eighteen months, was able to repay the loan.

On the day when the final instalment was paid, Sir Ambrose invited him to dinner. Little did he guess what Fate had in store for him that evening as the aged butler ushered him into the drawing-room, but long before the ladies had withdrawn from the dining table to enable the gentlemen to enjoy just one more glass of port wine—he knew.

When, later on, she asked him to write something in her remembrance album—which all young ladies possessed in those far-off days, he very boldly wrote these lines from Shakespeare:

> To me, fair friend, you never can be old;
> For as you were when first your eye I eyed,
> Such seems your beauty still.

* * * * *

Having brought Mr. Greatheart, as it were, to the very steps of the altar, our readers will doubtless regard this as an appropriate moment to close the Notebook.

We will not disappoint them, but nevertheless, we trust we may be pardoned if we refer briefly and finally to a subject which admittedly can only be of academic interert to accountants, but which was regarded by Mr. Greatheast as sufficiently curious and important to justify a record in his Notebook.

Under the general heading of homicide Mr. Greatheart very properly remarks, *inter alia*, that this may be either lawful or unlawful. If it be done unlawfully with malice *prepense*, it is murder; if without malice, it is manslaughter. It is justifiable if committed in carrying out the law, as for example where a person condemned to death is executed; but even so the execution must be in strict accordance with the sentence. Thus, if a man were sentenced to be shot in the Tower of London and the officer in charge of the shooting party thought that, all things considered, beheading would prove a more appropriate form of execution, having regard to the traditions of this ancient fortress, and did in fact behead the prisoner, the officer would be guilty of murder.

Another point of supreme importance is that the sentence of death must only be pronounced by a Judge authorised by lawful commission. If the Judge be not so authorised and execution follows the sentence pronounced by him, he is guilty of murder.

The following example illustrates the importance of the above remarks.

ILLUSTRATION FIVE

Judge Beddoes and Judge Bakewell were both appointed under the Commonwealth, shortly after the execution of King Charles I. They were great friends and enthusiastic chess players and never failed to indulge in this pastime whenever their judicial duties provided a suitable opportunity.

Now, Judge Bakewell had called at the house of his friend Judge Beddoes one summer's evening, with the intention of claiming his revenge for a recent heavy defeat on the chess board, when he was informed by the maid-servant that the Judge was suffering from a feverish cold. Hurrying to his friend's bedroom, he found the Judge in a very low state, largely due to the fact that he felt he would be unable satisfactorily to perform his duties on the Bench on the morrow.

Now it happened that Judge Bakewell was due to go on Circuit at the end of that week, and being free, readily promised to take his friend's place on the Bench.

The very first case with which Judge Bakewell had to deal was one of murder and as the accused was actually seen to commit the awful crime by no less than five independent persons, and as, moreover, he had anticipated the invariable practice of murderers of the twentieth century, by making and signing a statement at the time of his arrest, and finally as he pleaded guilty at the trial, Judge Bakewell's sole task was to sentence the wretched man to death. And on the following Thursday, John Storeaway was duly hanged by the neck until he was dead.

Three weeks later, the brother of the deceased John Storeaway raised the question of Judge Bakewell's right to pronounce sentence of death on anybody, let alone his unfortunate brother. This caused enquiry to be made, when, to the consternation of the whole Bench of Judges, it was discovered that the Commission, under which Judge Bakewell had been appointed, while authorising him to inflict some measure of torture on the prisoner, did not extend to the length of finishing him off, by sentencing him to death.

Judge Bakewell was thereupon arrested and charged with murder. In due course he appeared in the dock handcuffed and hemmed in by four sturdy regulators of the law, armed with heavy staves.

The Judge who had the responsibility of presiding at the trial was none other than Judge Beddoes, and as no possible defence could be adduced by counsel for the defence, it became the Judge's painful duty to pronounce the dread sentence of death on his friend.

Having done so, with great dignity and solemnity, he added, as it were, by way of afterthought: "And that's checkmate to you, Charles."

* * * * *

And so, with a throb in the throat, we again close our Notebook, leaving what still remains "to be continued in our next."

Points in Practice

FINANCIAL STATEMENTS FOR THE EMPLOYEE

ONE OF THE MOST IMPORTANT obligations of management these days is to preserve a friendly relationship between labour and capital, and the best way of preserving this is to ensure that the average employee understands their respective functions. The purpose of these notes is to set out briefly some of the difficulties which will be encountered, to suggest a means of overcoming them, and to give a form of tabular balance sheet which is considered singularly informative.

One of the first difficulties which will be met and must be overcome is the artisan's inherent distrust of figures and financial statements. This natural reaction to something which is not properly understood emphasises that data must be simply presented. Undoubtedly pictorial presentation is more easily interpreted and absorbed.

It is next essential to decide exactly *what* type of information it is necessary to impart. There seems little need to differentiate between the needs of the shareholder and those of the employee. Apart from the expert investor, who is perfectly capable of interpreting a complicated set of consolidated accounts, the average member of a company derives very little information from the strictly legal form of balance sheet and profit and loss account.

Further, it would hardly be wise to publish information for the employee which is withheld from a member. It can therefore be assumed that all the data will also be set out in the annual report and accounts—which implies that in many instances these will have to be much more informative than they are at present.

It is essential that there should be a proper appreciation of what really is the true capital of the business. This means that the *capital employed in the business* must be plainly shown, and both profits earned and dividends declared must be related to this figure. It is useful also to show the yield on the *market* price of the shares (where they are quoted), based on the dividends declared.

If these facts are set out clearly, preferably in a percentage form *and* money for money (that is, for profits and dividends at so many pence in the pound), many misconceptions about enormous dividends and profiteering will be avoided.

Next in order of importance is the relationship of dividends to the other items of expenditure and profit appropriation for the year. This can best be shown by relating all items to the turnover for the year. The various items can be satisfactorily sub-divided into:

1. Cost of goods sold,
2. Wages,
3. Salaries,
4. Administration Expenses,
5. Set aside for taxation,
6. Depreciation,
7. Dividends,
8. Retained in business.

The turnover figure can be taken as £100, so that each of the eight items appears as a percentage of turnover.

The information may be set out in the simple form of a tabular percentage statement or pictorially as a sub-divided or multi-coloured circle. There are also more exotic forms of presentation, such as mounds of pennies, series of square blocks, and so on. It is sometimes found, however, that it is difficult to incorporate comparative figures for previous years in pictorial presentation.

Quantity figures are of the greatest use, particularly during times of inflation, and wherever possible should be shown in relation to output, man-hours, etc.

Other information which is of interest is:

1. The amount of capital expenditure during the year (including any depletion in the working capital),
2. Reasonable information about expected capital and expenditure during the coming year,
3. Average weekly earnings,
4. Average hours worked weekly.

Photographs have recently been introduced as a method of informing the

BALANCE SHEET AS AT 195

Previous year £	Statement number				This year £
		CAPITAL EMPLOYED:			
	1.	Share capital			10,000
	2.	Capital reserves			5,000
		Free reserves			35,000
		Reserve for future tax			20,000
	3.	Undistributed profit			30,000
					£100,000
		EMPLOYMENT OF CAPITAL:			
	4.	Fixed assets			60,000
		Net current assets:			
		Stock	35,000		
		Debtors	40,000		
		Bank balances	14,500		
		Cash in hand	500		
			£90,000		
		Less			
		Trade creditors	*30,000*		
	5.	Provisions	*15,000*		
	6.	Tax now due	*5,000*		
			£50,000		
					40,000
					£100,000

employees. They can be very effective, so long as they are limited to such subjects as products of the company or the processes of manufacture. But photographs of the personalities of the business are best avoided: they rarely have any interest for the shareholder, and even less for the employee.

Certain information cannot be set out in the form of figures or pictorial presentation, and it is here that a lucid and clear style of narration is necessary. Instances of items of this kind are:

1. The reason for retaining the profits in the business, for example, the need to set aside sufficient working capital to meet the cost of fixed assets or stock at inflated prices.
2. The drain on working capital produced by payments in hard cash for income tax and profits tax.
3. The effect of inflation upon the paper profits shown in the company's accounts.
4. The effect of national and international policy upon the activities of the company.

The next question is that of the accounts themselves. The form of balance sheet on page 415 draws attention to the capital employed by the company and shows of what it consists. It is brief. It focuses attention upon the main items of the accounts and does not distract it by complicated legal phraseology. If desired, each main item can be set out in greater detail in attached statements (to comply with the Companies Act, 1948, this would have to be done in the case of certain items).

The final task is to interest the employees in the activities of their company. Apart from making generally available to employees the information mentioned above, discussions or lectures can be arranged with the aim of capturing the interest of a selected number of employees' representatives. If they respond, they can be persuaded to make others also interested, and a closer understanding between capital and labour should result. It might take time to do this, but it is an aim worthy of intense effort.

The False Gospel of Work

During the Incorporated Accountants' Course, held at Caius College, Cambridge, in September, the Sunday service in the College Chapel was conducted by the Rev. E. H. Heaton, M.A., Dean and Fellow of the College. We here give a condensed report of his sermon.

IT WAS THE FASHION OF THE DAY, SAID THE REV. E. H. Heaton, to read small books on big subjects and thus save time for reading big novels about small people. He would be surprised, therefore, if such small book titles as *Religion and Psychology* and *The Church and the Industrial Worker* had not at some time crossed our line of vision. But no slim volume entitled *Accountancy and Christianity* had yet appeared; it was tempting on that occasion to try to make good the deficiency but he would refrain. He could discover little direct connection between high finance and the New Testament (though he wished some of us accountants would tell the Church that the way in which her finances were run, on bazaars, bran-tubs, treasure-hunts and dwindling endowments, was nothing less than the slippery slope to bankruptcy).

He was a little tired, said the Dean, of ecclesiastical personages who flattered groups of professional men by telling them that their contribution to the world as Christians was through work well done. We could indeed serve God in our ordinary daily work, but that truth was easily perverted into a gospel of work, making unremitting labour a substitute for an imaginative and intelligent grasp of the Christian way of life. This idolising of work had the most respectable origin. The Puritans emphasised the more austere of the Christian virtues like thrift and simplicity of life. They allowed themselves little leisure and not surprisingly accumulated large fortunes. Affluence and work acquired a halo which was proper to saintliness alone. We had decided the material standard at which we wanted to live and thus had involved ourselves in a complexity which made more jobs and more work necessary. But some other peoples had decided to work less and to expect less. The decision what we did and how much we did of it revealed what we thought the important things in life were. The man who sacrificed his wife and family to winning promotion had decided and no amount of Higher Poppycockery could ever make his business a shining virtue. For most of us a profession could not be an adequate goal for our lives: if it exceeded its just bounds, it impoverished our conception of human responsibilities. Of what use was accountancy if man was deprived of his spiritual stature?

A German student had said in a recent broadcast that between three and four million young Germans were members of the Communist youth organisation and that nearly every professional career in the Eastern zone depended on a Free German Youth membership card. Unless accountants, lawyers, doctors, dons, scientists and all people who claimed to be responsible realised that there was much in life that met them in the daily round and the common task, more at stake than their professional careers, their generation would be guilty of a spiritual treason alongside which Nero's failure would be fiddling indeed.

The stock from which our inherited sense of decent behaviour represented an off-shoot was, broadly speaking, the Christian religion. Here was a force—perhaps the only one—which was potentially an answer to the challenge which Russia had given the West. He said *potentially*, because he had no illusions about the present state of the Church. It was full of old women of all ages and both sexes; much too weak intellectually; tepid sometimes in spiritual courage. It was nevertheless a political alternative to Communism, because it embodied different convictions about human life. But the work of the Church could not be done in a panic by mass production methods: each one of us should get moving from where he then stood—enquiring, puzzling, reading, urging, aiding, worshipping and praying. We knew, better than he did, concluded the Dean, the meaning of debt. It was his business to say, in our language and in that of the New Testament: "We are all debtors."

Directors' Remuneration for Profits Tax Purposes

WHEN A COMPANY IS ONE " THE DIRECTORS whereof have a controlling interest therein " (i.e. the directors can outvote the other shareholders at a general meeting, having regard to the shares registered in their names, irrespective of trusts that may lie behind such registrations), a limit is placed on the amount of the remuneration of the directors who are not " whole-time service directors."

"A whole-time service director" is a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control more than 5 per cent. of the ordinary share capital of the company.

The term " ordinary share capital " in turn is given a special meaning for Profits Tax purposes, and means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but have no other right to share in the profits of the company.

Meaning of " Remuneration "

The term " remuneration " in relation to a director includes all sums, whether actually paid to the director or not, which by virtue of any of the provisions of the Income Tax Acts, including, in particular, expense allowances and benefits caught by Part IV of the Finance Act, 1948, fall to be treated under Schedule E as part of the salaries, fees, wages, perquisites or profits from his office as director or from any employment in which he is employed by the company.

It is provided, however, that where, for income tax purposes, any deduction falls to be made under Rule 9 of the Rules of Schedule E from any remuneration, the same deduction applies for profits tax.

As it may be that a benefit assessed on a director under Schedule E does not appear in the company's revenue accounts, it is provided that where any sum so assessed is not paid by the company, the company's trading receipts and its expenditure shall both be increased by the amount in question, which will then be regarded as having been applied for the benefit of the director for determining the amount of the distributions of profits for the purposes of calculating the profits tax.

Exemptions

Specific exemptions from the definition of " remuneration " are given in the following instances:

(*a*) Where a director carries on a trade or profession and is assessable to income tax under Case I or Case II of Schedule D in respect of the profits thereof, " remuneration " is not to include any sums received by him for services rendered to the company in the course of the carrying on by him of that trade or profession, provided that the sums fall to be included in the profits of the trade or profession for the Case I or Case II assessment. This applies even if, by reason of the rules of assessment, the profits in question do not happen to form the basis of an actual assessment.

(*b*) Where the director is a member of a profession and separately remunerated as an employee of the company for services rendered in his professional capacity and the services are:

(i) services rendered as a solicitor or accountant; or

(ii) services (not of a secretarial or managerial nature) which are not of such a nature as to be directly connected with the trade or business carried on by the company,

the term " remuneration " is not to include any reasonable and necessary remuneration for those services.

Limitation of Amount

From January 1, 1947, to December 31, 1950, the amount allowed for remuneration of directors (other than whole-time service directors, whose remuneration is allowed in full) is limited to the greater of £2,500 or 15 per cent. of the profits (before deduction of any remuneration of directors other than whole-time service directors), with a maximum of £15,000. It must be emphasised that these are limitations; if the actual remuneration is less, only the actual remuneration is allowable. Should the chargeable accounting period be less than a year, the proportionate part of £2,500 or £15,000 applies.

As from January 1, 1951, the deduction allowable is complicated in that, where for more than half the chargeable accounting period there are two or more directors who are required to devote substantially the whole of their time to the service of the company in a managerial or technical capacity and are not whole-time service directors, the £2,500 is increased (subject to the limitation in (*a*) and (*c*) below) to £3,500. Moreover, if the number is more than two there is a possibility of increasing this by an amount not exceeding a further £1,000, but this additional amount is subject to the following conditions:

(*a*) In calculating the addition to the £2,500 allowable, any remuneration of a director in excess of £2,500 is ignored for both (*b*) and (*c*) below.

(*b*) If, ignoring the remuneration of the two highest paid directors, the aggregate remuneration of the remainder is less than £1,000, only that aggregate can be added to the £3,500, but:

(*c*) The total amount—i.e. the £2,500 plus the additions—must not exceed the aggregate of the remuneration of all the directors in question, including the two highest paid.

It must be emphasised that the excess of the remuneration over the amount allowable is a " distribution " but is not necessarily a " gross relevant distribution "; it only becomes the

latter if the director receiving it is a member of the company.

Illustrations: (A) The emoluments of the directors of a director-controlled company are as follows:

	£
A. Chairman (part-time director)	3,000
B. Full-time director	4,000
C. Part-time director	1,200
D. Full-time director	3,000
E. Full-time director	2,000
F. Full-time director	1,000
G., H. Whole-time service directors ... ... each	1,500

B, D, E and F each own more than 5 per cent. of the ordinary share capital.

The profits of the company are £3,500 for the calendar year 1950, after deducting the directors' emoluments.

	£
Profits per accounts	3,500
Add Remuneration of A to F ...	14,200
	£17,700
Deduct Maximum 15 per cent. ...	2,655
Profits for Profits Tax ...	£15,045

Assuming all directors are shareholders, the amount to be included in gross relevant distributions is £14,200 — £2,655 = £11,545.

Had the profits been £1,600, the computation would be:

	£
Profits per accounts	1,600
Add	14,200
	15,800
Deduct	2,500
Profits for Profits Tax	£13,300

(G.R.D. £14,200 — £2,500 = £11,700)

Had the computation been for the calendar year 1951, the allowance would be calculated thus:

B restricted to ...	£2,500	
D restricted to ...	£2,500	
E	£2,000	Exceeds £1,000
F	£1,000	
	£3,000	
	£8,000	Exceeds £4,500

Therefore £4,500 allowable in either of the above computations.

(B) The remuneration of directors of two companies is as follows for the calendar year 1951.

	X Ltd.		Y Ltd.	
	£	£	£	£
Part-time directors		3,000		3,000
Full-time directors (not whole-time service directors)				
R	3,000		3,000	
S	550		600	
T	650		500	
U	400		900	
		4,600		5,000
Remuneration added back ...		7,600		8,000
Remuneration allowable:				
R		2,500		2,500
S	550		600	
T		650	500	
U	400			900
	950			1,100
	950		1,100	
		4,100		4,500

In the case of X, Ltd., the limit of the addition to £3,500 would in the first place be £950, but the total for R, S, T and U cannot exceed £4,100. In the case of Y, Ltd., both totals are adequate, so the extra £1,000 is allowable.

The deductions for remuneration will therefore be: X, Ltd., £4,100; Y, Ltd., £4,500, unless in each case 15 per cent. of the profits (before deduction of the £7,600 and £8,000 remuneration respectively) is more.

(C) Had the remuneration been: R £1,000; S £700; T £600; and U £500, the amount allowable would be limited to £2,800 in any event.

(D) Had it been: R £2,700; S £600; T £300, the allowance would be £3,400, i.e. £2,500 + £600 + £300 under (*a*) and (*c*) above.

(E) For the year ended March 31, 1951, a director-controlled company made a profit, before charging the remuneration of directors other than whole-time service directors, of £18,000. There were four full-time directors, each in receipt of £3,000 per annum. As from January 1, 1951, the maximum of £4,500 is thus available:

Profits nine months to December 31, 1950 ...	13,500	
Less Maximum Remuneration, 15 per cent. ...	2,025	
		11,475
Profits three months to March 31, 1951 ...	4,500	
Less Maximum Remuneration ¼ × £4,500 ...	1,125	
		3,375
Profits for Profits Tax ...		£14,850

It should be noted that the requirement for any addition to the £2,500 allowable is determined by there being two or more working directors for more than half the chargeable accounting period. So long as that condition is satisfied, the addition is applicable —there is no question of apportionment on the ground of changes in directors. Also, while for less than a year the amounts of £15,000, £3,500, £2,500 and £1,000 are apportioned, this does not apply to (*b*) above.

Small Maintenance Payments

[CONTRIBUTED]

WHERE THE DIVORCE COURT OR A Court of Summary Jurisdiction makes an order for the payment of maintenance "subject to deduction of tax" —"free of tax" orders were criticised in *Wallis* v. *Wallis* (1941, 2 A.E.R., 291) —the husband is entitled to deduct tax at the appropriate standard rate from the payments which he makes.

Deduction of tax by the husband, however, is not permissible if the order happens to be a "small maintenance order" within the meaning of Section 25 (1) of the Finance Act of 1944. A "small maintenance order" for the purpose of that provision must be a *weekly* order; furthermore, the amount must not exceed £2 a week where the payment is to be made to the wife and must not exceed £1 a week where the payment is to be made to a child. In the case, however, of orders made by a Court of Summary Jurisdiction, these amounts have been increased to £5 and £1 10s. respectively by Section 3 of the Married Women (Maintenance) Act of 1949, and the age limit of the children has been increased from 16 to 21 years.

Since the payments under a small maintenance order are required to be made without deduction of tax, the husband will be entitled, in the computation of his assessable income for the year in question, to deduct the amount of the payments from the assessable income (Section 25 (*a*) of the Finance Act, 1944).

In order that a payment should be a small maintenance payment for the purpose of Section 25 (1) of the Finance Act of 1944, the essentials are as stated, namely, that the payment must be

made weekly and the amount of the payment must be within the limits specified in the Act. It may be added that the payments must be payable by an order of a Court in the United Kingdom and that the payment should be of a kind that, *apart from the effect of Section 25 of the Finance Act of 1944*, would fall within General Rule 19 or General Rule 21. This means that the payment must be in the nature of an annual payment; a payment which is to be made weekly will be treated as an annual payment for this purpose (*Taylor* v. *Taylor* (1938, 1 K.B. 320; 1937, 3 A.E.R. 571, 574)). The payment would fall under General Rule 19 when the payer would be entitled to keep the tax deducted from the payment without accounting for it to the Revenue, whereas on the other hand it will be made under General Rule 21 where the payer would have to account to the Revenue for the tax so deducted by him. Whether or not he would have to account, that is, whether or not the case would fall under General Rule 19 or under General Rule 21, would depend on whether the payer had a sufficient fund of taxed income out of which the payment was being made. For example, if a man has a taxable income of £500 a year (i.e. if he pays tax on a sum of £500 in the year in question) and if he is ordered by the Court to pay £2 a week to his wife and £1 a week to his child (i.e. £150 per annum gross), then the payments will be made by him out of a sufficient fund of taxed income (£500), so that he would deduct tax when making the payment and would retain it for himself. The wife, of course, might in such a case be entitled to a refund from the Revenue in respect of tax deducted according to her own taxable income.

In the case of some "free of tax" orders made in the past and before *Wallis* v. *Wallis* (*sup.*), the point may still arise whether an order providing for the payment of £2 a week "free of tax" to a wife would come within this Section. It is to be observed that paragraph (1) of Section 25 (1) of the Finance Act, 1944, merely speaks of the rate not exceeding £2 a week, without any mention of tax, and it is submitted therefore that any order made "free of tax" which would result in a gross payment, when the sum was grossed up at the appropriate fraction, of not more than £2, would not fall within this Section.

In most cases it would seem that no material advantage accrues to a husband by the non-deduction of tax from the sum ordered to be paid under a small maintenance order, and by the payment of the amount ordered in full, that amount being deducted from his income for the purpose of arriving at the amount at which he is to be taxed. The wife or other recipient receives the payment in full and is chargeable directly in respect of the whole of the payment made to her (according, of course, to her other income). In certain cases where a person has already been assessed and paid tax for the year in question and then has an order of this sort made by the Court against him he would be entitled to a reduction of his assessment and to repayment of the appropriate amount of tax resulting on the adjustment of his assessment.

Under Section 25 (5) of the Finance Act, 1944, the Court making a small maintenance order or varying an order, with the result that it becomes, or ceases to be, a small maintenance order, or changing the persons who are to be entitled to a small maintenance payment, is required to furnish the Commissioners with the necessary particulars.

The Effect of Supplementary Deeds of Covenant

It often happens after an order for a small maintenance payment has been made that the husband and wife may enter into an agreement whereby the husband covenants to increase the payment payable to her by the order and the wife in return undertakes not to enforce the order while the payments under the deed are maintained and not to apply to the Court to vary the order by an increase in the amount to be paid to her. Any agreement on the part of the wife to abstain from applying to the Court for additional maintenance or for variation of the order would, however, be completely null and void. The wife has a common law right to maintenance and she cannot be deprived of that right by any agreement into which she enters, even for a consideration. But the fact that a deed has been entered into, under which the husband is to pay a larger sum to the wife, would be a matter which the Court would consider on any application for variation.

What is the true position where, after an order has been made for a small maintenance payment, the parties enter into a deed increasing the amount to be paid? Usually the deed will provide that the wife is to accept the amount payable under the deed as a *pro tanto* discharge of the husband's obligation under the order: the deed may not say so in specific terms but usually that will be found to be its effect. It is rather difficult to determine whether in these circumstances the increased payments by the husband are made under the deed or under the order. It is obvious that an order remains an order and in full force and effect until it is varied or discharged and nothing which the parties may do can affect its validity. Admittedly the parties can go back to the Court and ask that the order should be varied because of the existence of the deed but unless and until they do so, the original order stands and is of full force and effect.

If an order has been made and a deed is subsequently entered into increasing the payments, it would appear some portion of the payments made thereafter must still be regarded as having been made by the husband under the order. If this view is correct then a rather anomalous and difficult situation arises. The husband must be regarded as paying over to the wife the gross sum ordered to be paid under the order. Moreover, in respect of this part of the payment the husband would not be entitled to deduct any tax but he would be entitled to have his income for tax purposes reduced by this portion of the payment.

On the balance of the payment regarded as made under the deed, the husband would be deducting tax at the appropriate rate and could not reduce his income for tax purposes by the amount of the payment—except for sur-tax.

When a husband proposes to increase the payments under a small maintenance order, it may be suggested that the order should be left entirely alone, the husband continuing to pay under it in full, without deduction of tax, and reducing by the amount of the payment the income on which he is to be taxed. A deed could then be entered

into, under which the additional payment would be kept separate from the payment under the order, tax being deducted when making the additional payment under the deed, since it would be an annual payment. He would not be entitled to reduce his income, for tax purposes, by the amount paid under the deed. As an example, suppose a husband was ordered by a Divorce Court to pay £2 a week to his wife and subsequently desired to pay her an additional £2 per week free of tax. He would execute a deed providing for a payment by him of such a sum as after deduction of tax at the standard rate would amount to £2 per week; the deed would make it quite clear that this amount was additional to the amounts payable under the order. This procedure would have the further advantage that it would avoid the complication frequently encountered in deeds supplementing amounts payable under orders—namely, that they provide for payments to be made not weekly—as is necessary in order that they should be small maintenance payments—but monthly or quarterly or according to some other period.

Taxation Notes

Initial Allowances

THE SUSPENSION OF INITIAL ALLOWANCES in respect of expenditure incurred after April 5, 1952, has some interesting aspects.

Anyone assessed under Schedule E, or on "actual" profits under Schedule D because the business is new, will therefore get no relief in 1952-53, but a business assessed on the preceding year basis will get relief in 1952-53 and in most cases in 1953-54. This does not mean that the latter will get any more relief; it is merely the "timing" that is altered.

In the case of a ship, relief will continue to be given in respect of expenditure after April 5, 1952, provided that on April 10, 1951, the ship was actually under construction for the persons carrying on the trade (or about to carry it on) on that date, or that a contract for the construction of the ship or of the engines for the ship for those persons had been entered into by them not later than April 10, 1951. It seems, therefore, that a contract for the engines entered into before that date will keep relief alive for the ship as a whole, even if the contract for the hull, etc., were dated later.

Incidence of Taxation on Private Businesses

The incidence of taxation on family businesses owned by private companies is rarely appreciated except by the sufferers. Consider the following two examples:

Illustration (A):

No franked investment income; no dividend paid:

	£	£	£
Profits for Profits Tax		8,000	
Abatement		800	
		7,200 at 50 p.c.	= 3,600
Directors' remuneration	8,500		
Less Allowed	3,500		
		5,000	
N.D.R. ...		2,200 at 40 p.c.	= 880
Profits Tax ...			£2,720
Income for Income Tax:			
£8,000 — £5,000 — £2,720 = £280			
Income tax at 9s. 6d.			£133

Two directors, both married, no other allowances.

Income (each)		4,250	
E.I.R.	400		
P.A.	190		
		590	
		3,660	
£50 at 3s. ...		7 10 0	
£200 at 5s. 6d.		55 0 0	
£3,410 at 9s. 6d.		1,619 15 0	
		1,682 5 0	
Sur-tax		343 15 0	
		2,026 0 0	

Total taxation :	Profits tax		£2,720
	Income tax and Sur-tax	£ 133	
		2,026	
		2,026	
			4,185
Total on an income of £11,500			£6,905

Which leaves in the company's hands £147
and in the hands of each director £2,224

Illustration (B):

	Profits Tax		Income Tax	
Profits	£21,000		£21,000	
Three equal directors ...	4,500		15,000	
	£16,500 at 50 p.c.	= £8,250	£6,000	
£15,000 — £4,500	10,500			
N.D.R.	6,000 at 40 p.c.	= £2,400		
Profits Tax		£5,850	£5,850	£5,850
			150	

Income Tax at 9s. 6d. ...				£ 72
Each director (married) ...		£ 5,000		
E.I.R.	£ 400			
P.A.	190			
		590		
		£4,410		
£50 at 3s.		7	10 0	
£200 at 5s. 6d.		55	0 0	
£4,160 at 9s.		1,976	0 0	
		2,038	10 0	
Sur-tax on £5,000		512	10 0	
	3 ×	2,551	0 0	7,653
Total tax on £21,000 ...				£13,575

The company is left with £78
The three directors with £2,449 each = £7,347

It must be remembered that money is worth half what it was in 1939; the reward for the entrepreneur has faded. The directors would be better off if they left the profits all in the company and a direction were made under Section 21, Finance Act, 1922. Additional income tax and sur-tax would come to less than the profits tax.

Case III Assessments on a Woman's Income in the Year of Marriage

It seems to be the practice of the Inland Revenue to assess income from such sources as 3½ per cent. War Loan, in the year of marriage of a woman, on the "actual" and not "preceding" year basis. If a woman owns £1,000 War Loan and marries on May 30, the whole year's income will be regarded as after marriage; if she marries on December 2, it will be regarded as all before marriage; and if the marriage was on June 2, half the income will be hers as a single woman, the other half will be regarded as arising after marriage.

While it is a fact that the income has so arisen, it is difficult to fit this practice into the rules of assessment.

Rule 2 of the Rules applicable to Case III (as amended by Section 17, Finance Act, 1922) provides that, except at the beginning of a source, the tax is to be computed on the full amount of the income arising within the year preceding the year of assessment. It is only where there has been a change in a source or part of a source that Section 30, Finance Act, 1926 (as amended by Section 21, Finance Act, 1951) comes into action, but even then the "preceding year" basis applies to the continuing source.

How, then, can an assessment based on the preceding year's income (even if it is the same as that of the current year) be split by reference to dates of receipt?

It is to be noted that in *Palmer* v. *Cattermole* (1937, 16 A.T.C. 104), it had been held by the General Commissioners that direct assessments in the year of a married woman's death, calculated on the preceding year's basis, had to be apportioned on a time basis, and Lawrence, J., agreed that this was right. Similar principles ought to be applied in the year of marriage.

It is true that if the War Loan interest is taxed at source, it is the "actual" interest that comes into each period; that, however, is irrelevant, as we are dealing here with a direct assessment under Case III. The experience of readers will be interesting, and we hope to hear from them.

Chargeable Accounting Periods for Profits Tax

When the rate of Profits Tax is changed, any accounting period bridging the date of change has to be split into two chargeable accounting periods (C.A.Ps.). At January 1, 1947, it was provided that the tax should be calculated for the whole accounting period on the old basis and on the new, and the tax apportioned to each C.A.P. by reference to the number of months and fractions of months therein (Section 47 (2), Finance Act, 1947).

At October 1, 1949, and January 1, 1951, however, there is no similar provision; but the parts of the accounting period falling before and after the relevant date are to be separate C.A.P.s (Section 1, Profits Tax Act, 1949; Section 28, Finance Act, 1951), except for the purposes set out in the Schedule to the Profits Tax Act, 1949.

The question then arises as to the computation of the profits. We find from Section 20 (3), Finance Act, 1937, that where a C.A.P. is not the same as the accounting period, such division and apportionment of the profits of the accounting period are to be made as appears necessary to arrive at the profits arising in the C.A.P.—such apportionment to be on a time basis unless the Commissioners of Inland Revenue having regard to any special circumstances otherwise direct. Is there some distinction between "division" and "apportionment"?

In normal circumstances, the profits of the accounting period are computed, and the results apportioned on a time basis. This is not appropriate, however, at January 1, 1951, so far as directors' remuneration in a director-controlled company is concerned, as it would apportion part of the increased remuneration (where relevant) back to the first of the two C.A.Ps. It is evident that the C.I.R. should otherwise direct!

By Section 37, Finance Act, 1947, any apportionment of a gross relevant distribution has to be made on a time basis; in this case there is no power given to direct otherwise.

Turning back to Section 20, Finance Act, 1937, we find that the profits of each C.A.P. are to be separately computed on income-tax principles as adapted in the Fourth Schedule to that Act, the first paragraph of which says that the profits to be taken are the actual profits of the C.A.P. Paragraph 11 (now amended by Section 30, Finance Act, 1951) refers to the deduction of directors' remuneration in any C.A.P. But these must all be read subject to Section 20 (3), Finance Act, 1937, and the other sections referred to above.

If, therefore, we have a director-controlled company with the following figures, which of the methods of calculation set out below is correct?

(A) is logical—which is a dangerous test in taxation! (B) Ignores the C.I.R.'s right to direct an apportionment of profits otherwise than on a

Year to March 31, 1951.

			£	
Profits			8,000	
Add Remuneration of directors other than whole-time service (all working full time—four directors)			12,000	
			£20,000	
(A)	To 31.12.50		From 1.1.51	
	£15,000		£5,000	
Allow 15 p.c.	2,250	¼ × £4,500	1,125	
	£12,750 at 30 p.c.		£3,875 at 50 p.c.	
Gross (and net) Relevant Distribution				
¾ × £12,000 =	£9,000	¼ =	£3,000	
Less	2,250		1,125	
	6,750		1,875	
Non-distribution relief	£6,000 at 20 p.c.		£2,000 at 40 p.c.	
Tax	£2,625		£1,137 10 0	
Total ...	£3,762 10 0			
(B)				
As above	£20,000			
Less Remuneration	3,375			
	£16,625			
	To 31.12.50		From 1.1.51	
	£12,469 at 30 p.c.		£4,156 at 50 p.c.	
N.R.D. £12,000 — £3,375 ...	6,469		2,156	
N.D.R.	£6,000 at 20 p.c.		£2,000 at 40 p.c.	
Tax	£2,540 14 0		£1,278	
Total ...	£3,818 14 0			
(C)				
Profit as in (A)	£12,750 at 30 p.c.		£3,875 at 50 p.c.	
N.R.D. as in (B)	6,469		2,156	
	£6,281 at 20 p.c.		£1,719 at 40 p.c.	
Tax	£2,568 16 0		£1,249 18 0	
Total ...	£3,818 14 0			

time basis. (C) Appears to comply with the Acts, adopting that right, yet gives the same result as (B), because at the moment the rate of tax on the undistributed profits is the same (10 per cent.) for all C.A.P.s. But this equality might not continue in the future. We have seen (A) adopted in practice, however, and would welcome readers' experiences.

Error or Mistake

Relief from income tax is not to be given in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return or statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return or statement was made (Section 24 (2), Finance Act, 1923). The restriction on reopening Estate Duty cases on the ground of legal mistake is similar, though the wording is that the duty was paid " on a view of the law which at the time was generally received or adopted in practice " (Section 35, Finance Act, 1951).

Commenting on these provisions, the *Law Journal* says:

> The words quoted may well come to be be a euphemistic way of presenting as law the simple proposition that any payment of Estate Duty once made is correct if it was made on a view of the law that the Estate Duty Office chose to adopt at the time. . . . If, therefore, a man has a genuine dispute on an Estate Duty point, he will be wise to fight his case before he pays rather than to have second thoughts and try to recoup himself later.

Tolley's Income Tax Chart Manual

The thirty-sixth edition of *Tolley's Complete Income Tax Chart Manual*, (1951-52) is now published at 12s. 6d. net. It contains parts as follows:

Tolley's Chart is such an old friend that its publication is welcomed by all who have to deal with income tax in their daily affairs. As it is published after the Finance Act has been passed, it can always be relied upon to incorporate new legislation and to be up-to-date. It includes judgments of the Courts down to July, 1951.

Taxation in Eire.—This appears to be the only readily available publication on taxation in the Republic of Ireland and we welcome the revised and enlarged form in which it is published on this occasion. Whilst taxation in both countries is based on the Income Tax Act, 1918, the Finance Acts since 1922 have produced very important differences and any one dealing with income arising in Ireland will find *Tolley* a welcome friend.

Synopsis of Profits Tax.—*Tolley's Synopsis* is the most concise publication on Profits Tax and will be found very useful by practitioners as a guide to the rules of computation, assessment, etc. Even where it is only used as an index to the Acts, it will be worth far more than the price charged for it.

Synopsis of Excess Profits Tax.—Legislation affecting E.P.T. continues to be enacted and cases are still coming before the Courts. This new edition will keep practitioners up-to-date.

Synopsis of Double Taxation.—This synopsis follows the general plan of those already published dealing with agreements with other countries. It is set out in tabular form, permitting rapid reference to the provisions of the new French and Netherlands conventions, which supersede earlier agreements and have a much wider field.

Double Taxation—Norway

An Order in Council in respect of the double taxation agreement with Norway relating to taxes on income was made on October 4 (see ACCOUNTANCY, October, page 388). The Order has now been published as Statutory Instrument No. 1798 of 1951.

The War Disabled Ex-Service Men's Exhibition will be held at 118-22, Brompton Road, London, S.W.3, from November 6 to 17. A wide range of goods will be on sale from 9.30 a.m. to 5 p.m. (Saturdays 9.30 a.m. to 1 p.m.).

Recent Tax Cases

By W. B. COWCHER, O.B.E., B.LITT., Barrister-at-Law

INCOME TAX

Income tax—Tax-free annuity under will—Repayment to annuitant under Income Tax Act, 1918, Section 34, in respect of trading loss by reference to annuity—Whether tax repaid in respect of annuity to be paid over to trustees—Income Tax Act, 1918, Section 34—Finance Act, 1926, Section 33.

In re Lyons (Ch., July 11, 1951, T.R. 265) was a case illustrating once more how the legal profession has profited by the conception of a tax-free annuity. The case under consideration arose out of the will of Henry Lyons, who died on March 25, 1946, and left his son Michael £10 per week free of income tax for life. For the years 1946-7 and 1947-8, by reason of the decision in *C.I.R.* v. *Cook* (1946, A.C. 1, 26 T.C. 489), the gross annuity was £945 9s. 1d. and £963 12s. 9d. (53 weeks). Michael sustained a business loss for 1946-7 of £1,027 and, claiming relief under Section 34, was repaid £429 19s. 1d. For 1947-8 there was a loss of £1,152 and a similar claim resulted in repayment of £422 11s. 11d. Apart from wife's earned income of £97 and £242 in the two years affected, Michael had no net income other than his annuity. By reason of the well-known *Pettit* decision, an annuitant in such a case is accountable to the trustees for tax repaid in respect of a tax-free annuity; whilst, by reason of *In re Kingcome* (1936, Ch. 566, 15 A.T.C. 37), the annuitant is under obligation to claim repayment in respect of personal allowances. In this case what was in question was the extent to which, if at all, the annuitant was accountable to the trustees.

Romer, J., said that there were three views. The first was that Michael was under no obligation to account for any of the money repaid under Section 34. The second view was that he was accountable under *Pettit* for only so much as would be equal to the tax in respect of his statutory allowances had he made no claim under Section 34. The third view was that he was accountable for so much of the tax recovered as was referable to the annuity. Counsel for Michael apparently contented himself with striving for the second view, arguing that as the tax referable to the annuity was his income for sur-tax he should be allowed to retain what was in the nature of a windfall. The judge, however, rejected this argument and held that the object of giving Michael his annuity free of tax was:

> to exonerate him from a particular burden, for example, tax, and not from some other burden such as a loss in his business.

He therefore held that the whole of the sums recovered for the years 1946-7 and 1947-8 in respect of tax paid by the trustees was repayable to them although "different considerations might well have arisen" had Michael carried forward his losses under Section 33 of Finance Act, 1926.

In the writer's opinion, some of the reasoning in the leading cases on the subject is not as clear as the lesson Michael and others placed in a similar position will have learned from the present decision.

Income tax, Schedule D, Case II—Actor—Restrictive covenant—Not to appear in films for eighteen months—Lump sum payment—Whether income from vocation.

Higgs v. Olivier (Ch. July 11, 1951, T.R. 213) arose out of a payment to Sir Laurence Olivier of the sum of £15,000. In 1943 he had entered into an agreement with a company in connection with the production of a cinema version of *Henry V*, in which he played the title part. The contract ran out by September, 1944. The film, apparently, ran slowly in England at first and, on July 18, 1945, in order to give it a better chance, the film production company thought fit to conclude an agreement with Sir Laurence whereby in consideration of the sum of £15,000 he agreed for eighteen months from the date of the deed not to appear in any capacity in connection with a film either in England or the U.S.A. or elsewhere. There was no engagement to serve the company and no obligation on the company to employ him. Moreover, he was not restricted from carrying on his vocation as an actor and the case stated showed him as earning between £9,000 and £10,000 in the year. Assessed in respect of the £15,000 for the year 1946-47, Sir Laurence appealed; and, the Special Commissioners who found that the curious arrangement was not a tax-avoiding device, discharged the assessment. They declared:

> We found it impossible to say that the sum of £15,000 under the deed came to the respondent as part of the income from his vocation. On the contrary, it came to him for refraining from carrying on his vocation, and in our opinion was a capital receipt.

Harman, J., upheld their decision as a finding of fact. Nevertheless, one would have thought that the question whether a payment incidental to the carrying on of a vocation although not derived from an actual "carrying-on" was within the charge to Case II might well be regarded as a question of law. Although the finding was one of fact, the decision has implications of the widest character, particularly in fields within the special province of the Monopolies Commission. Unless the decision is reversed in the higher Courts, the Revenue will, no doubt, take other action.

PROFITS TAX

Distribution charge—Distribution to members of company out of capital sum not assessable to tax—Distribution of shares in subsidiary company—Whether a dividend—Period in respect of which dividend paid—Finance Act, 1937, Section 19—Finance Act, 1946, Section 44—Finance Act, 1947, Sections 30, 35, 36.

Lamson Paragon Supply Co., Ltd. v. C.I.R. (Ch., July 13, 1951, T.R. 243), was a case where there had been a distribution to members of a company of shares in a subsidiary company. The company's accounting periods ended on January 31, and in March, 1947 it resolved to distribute to its members by way of special dividend shares of the nominal value of £125,000 out of a capital reserve representing past capital transactions. By Section 30 (1) of the Finance Act, 1947, the Profits Tax was increased to 30 per cent., with non-distribution relief increased to 20 per cent. There was also provision by sub-Section (3) for a distribution charge of 20 per cent. upon the excess where distributions to proprietors for any chargeable accounting period exceeded the profits thereof. This distribution charge was, however, to be subject to limitation by reference to total non-distribution relief previously allowed.

The Special Commissioners had held that the distribution in question was not a "dividend" within Section 36 (1) (*a*) of Finance Act, 1947, but was a distribution of assets within sub-Section (1) (*b*) and subject to distribution charge. For the company it was now contended that the distribution charge was an additional tax over and above the Profits Tax and that this tax could not apply to income not assessable to income tax. It was further argued that although the distribution was not made until March, 1948, the balance sheet of the company at January 31, 1947, showed that it was a distribution in respect of the accounting period then ended. Harman, J., affirmed the decision of the Special Commissioners, although holding that the distribution was a dividend. He rejected the idea of two taxes, holding that a distribution charge was only the withdrawal of non-distribution relief previously given. As regards the

claim that the distribution, made less than six months after the close of the accounting period ended January 31, 1947, should be held to be in respect of that period, he upheld the Crown's contention, which had succeeded before the Special Commissioners, that the distribution in question " was not expressed to be paid in respect of that period." He construed these words as " expressly made payable " saying that he could not " see what else they can mean." (It may be suggested that the word " expressed " could be regarded as equivalent to " declared "; but this would not have helped the company.) In the circumstances of the case it is difficult to see how the Court could have come to other conclusions.

EXCESS PROFITS TAX

E.P.T.—Capital employed in business—Capital assets destroyed by enemy action—Claims to payment for war damage—Whether debts—Whether such claims capital employed in business—Finance (No. 2) Act, 1939, Section 13 (3); Schedule VII, Part II, paragraph 1 (1), (2)—Finance Act, 1940, Sections 27, 34—War Damage Act, 1941, Sections 61, 68.

Birmingham Small Arms Co., Ltd. *v.* C.I.R. (House of Lords, June 20, 1951, T.R. 163) was noted in our issues of March, 1950 (page 95), and September, 1950 (page 326). The facts of the case were simple. A large part of the company's machinery and tools of the value of £647,012 had been destroyed by enemy action on November 22, 1940, and it claimed that under the proviso to Section 13 (3) of the Finance (No. 2) Act, 1939, there should be an increase of the standard profits owing to an increase in the " capital employed " represented by the right to receive a war damage payment. The claim had been rejected by the Special Commissioners, whose views had been upheld by Croom-Johnson, J., and endorsed by the Court of Appeal. In the Lords, the original contention that the claim for war damage was a " debt " within para. 1 (1) (*b*) of Part II of the Seventh Schedule to the 1939 Act was abandoned, and argument was confined to the question whether, as contended, the claim became an asset of the trade or business within para. 1 (1) (*c*) on May 31, 1941, the date on which the War Damage to Goods (General) Regulations, 1941 (No. 787), were made under the War Damage Act, 1941.

With the exception of Lord Oaksey, who thought it might have been argued that the payment for damage was referable to the accounting period in which the tools were destroyed but was not prepared to dissent, their Lordships, whilst showing considerable variation of opinion, were agreed that the company's claim failed. Lord Simonds held that it was a question of fact for the Commissioners whether a right is an asset employed in a company's trade and that it could not be capital employed in the trade unless it was an asset so employed. He saw no reason to disturb their findings. Lord Norman was not satisfied that a claim to money not being a debt had any place among the assets of which the capital employed consisted. Lord Radcliffe devoted a large part of his speech to showing that the word " employed " is of no particular significance; but finally said he would content himself with saying that no part of the capital employed in the accounting period consisted of a claim which was at that date uncertain both as to amount and time of payment. Lord Tucker agreed with Lord Normand's view above-mentioned and also with those of their Lordships who held that the words " capital employed " in their present context did not refer to actual use of an asset once it had been shown to have been capital put into the business and to be still there. This last statement referred to the decision in the *Terence Byron* case (1945, 24 A.T.C. 66, 1 All E.R. 636), where it was held that the book-value of a derelict theatre remained " capital employed " in a business and summarised what their Lordships held to be Lord Simon's judgment in that case.

Whatever may be thought of the *Terence Byron* decision from an economic standpoint, the decision of their Lordships in the present case makes the law on an important point accord with common sense and reality.

E.P.T. — Income tax principles — Publican — Stock in bond purchased—Death of publican—Business carried on by executors—Stock in bond later sold separately by executors—Whether stock in bond at publican's death stock-in-trade of executors—Finance Act, 1938, Section 26.

C.I.R. *v.* Smith's Executors (K.B. (Northern Ireland), March 8, 1951, E.P.T. Official Leaflet No. 102), arose out of the will of a publican who at the time of his death held a quantity of wines and spirits in bond. The executors from the date of death on November 24, 1942, to May 30, 1943, ran the licensed business and it was admitted that during this period they were trading. During this period, however, save for a quarter-cask of whiskey, no stock was taken from bond and in the trading and profit and loss accounts and balance sheet of the executors, the stock in bond appeared at its original figure of £805. Upon April 30, 1943, the executors contracted to sell the business and the sale was completed on May 30, 1943, the stock in bond being excluded and subsequently sold, on October 11, 1944, for a gross sum of £13,566.

On appeal to the County Court judge of County Down, the assessment of £15,000 which had been reduced by the Special Commissioners to £6,325, was discharged. He held that the stock in bond was not trading stock of the executors but Curran, J., reversed his decision. The substance of his decision is the statement, supported by authorities:

> Executors who embark on trade must take over the testator's business as they find it, together with the trading stock belonging thereto.

He said there were no facts to support the conclusion of the County Court judge that it was the obvious intention of the executors not to use the stock in bond for sale on the licensed premises but to make one large wholesale disposition. When the necessity arose stock in bond had been used as trading stock.

The finding that the stock in bond had become trading stock in the hands of the executors precluded the exemption from the stock valuation provisions of Section 26 of the Finance Act, 1938, from applying. Had the executors promptly sold the whole of the stock in bond by auction after the death it would have been a different case and the result in such circumstances might well depend upon the terms of the will.

ESTATE DUTY

Estate Duty—Group pension scheme—Insurance policies providing pensions—Option to obtain pension for surviving wife on death of pensioner in consideration of smaller pension—Aggregation—Finance Act, 1894, Sections 1, 2 (1) (d), 4.

In re Payton: In re Austin Motor Co., Ltd. (C.A., July 2, 1951, T.R. 189) was noted in our February issue (page 112). The issue, an important one in view of the large number of annuities of the same type, was whether, where the option for a survivor pension was exercised, in the words of the Master of the Rolls (who gave the judgment of the Court), there had been created by the contracts

> a single and identifiable (and intelligible) item of property, namely, the benefit of the society's covenant with the company to pay what we may call the Payton last survivor pension throughout its term, which piece of property is enjoyed successively and is enforceable successively.

If so, it was contended for the Crown that the case was governed by *In re Duke of Norfolk* (1950, Ch. 467, 29 A.T.C. 7); and as the property in question passed on the death of Mr. Payton to his widow the case was caught by Section 1 of the 1894 Act and the total value of the pensions was aggregable, by reason of Mr. Payton's prior

interest, the exemption under the proviso to Section 4 of the Act not applying. The Court unanimously rejected this argument and affirmed the judgment of Wynn-Parry, J., holding that the liability to duty was not under Section 1 but under Section 2 (1) (*d*) as an annuity purchased or provided by the deceased, but exempt from aggregation under Section 4 inasmuch as the deceased never had an interest in it. Leave was given to appeal to the Lords.

The judgment is a careful analysis of the problem in the light of the *Duke of Norfolk's* case and previous decisions. As was pointed out in the previous note, the contracts in question were between the Austin Motor Co. and the Legal and General Assurance Society and were only enforceable by the pensioners by reason of the company having been put into the position of trustees. Holding that the only rights and interests arose exclusively out of the terms of the contract of assurance, the Master of the Rolls said that the only right of property emerging was a chose in action, the right of the company to enforce the covenant to pay the pensions. This, it was held, could not be considered or comprehended apart and separately from the right to enjoy, by the terms of the contract, the benefit contracted to be given. Any rights or interests of the company as distinct from the pensioners seemed to the Court altogether "too spectral" to be fairly analogous to the interests in the *Norfolk* and *Cassel* (1927, 2 Ch. 275) cases or to be fairly regarded as "passing" within Section 1 of the Finance Act, 1894.

Estate held by deceased as tenant for life—Estate consisting of landed property and investments—Formation of company—Alteration of deed of resettlement to permit of funds being invested in shares of company—Direction by tenant for life and another appointor to trustees to sell investments representing capital moneys to the company—Sale of landed property to company by deceased as tenant for life—Consideration cash and £750,000 payable in 40 half-yearly instalments—Appointment to deceased absolutely of £100,000 cash and the £750,000—Former sum used to take up preference shares in company—£850,000 paid by trustees for 50,000 ordinary shares at premium of £16 per share—Execution by deceased and another appointor of deed whereby income of settlement accumulated for twenty years for benefit of classes of persons to complete exclusion of deceased but as deceased should appoint—Loans by company to deceased at interest—Neither loans nor interest to be payable until two years after death—Whether disposition of life interest with non-retention of any interest by disposor—Whether transfer of assets made by deceased to company in fiduciary or non-fiduciary capacity—Customs and Inland Revenue Act, 1887, Section 38 (a)—Customs and Inland Revenue Act, 1889, Section 11—Finance Act, 1894, Sections 1 2 (1) (b)—Finance Act, 1930, Sections 35, 39—Finance Act, 1940, Sections 43, 46, 47, 51, 56, 58, 59.

Attorney - General *v.* St. Aubyn Estates, Ltd, (House of Lords, July 12, 1951, T.R. 217), was noted in our issue of September, 1949 (page 251), and July, 1950 (page 255). In the House of Lords, the question how far the elaborate network of Sections contained in the 1940 Finance Act had been circumvented by a complex scheme characterised by Lord Radcliffe as "deplorable from the point of view of those interested in revenue collection" was again marked by division of judicial opinion. In the lower Courts, Croom-Johnson, J., had found that the scheme succeeded, but his decision had been overruled in the Court of Appeal. Their lordships, on the other hand, found that the scheme only partially failed. The Revenue, however, could console itself for this by getting something apparently new so far as Estate Duty is concerned although well known in connection with income tax, a right of option, where more than one construction is legally possible, to choose that which is most advantageous to it.

The deceased died in November, 1940, and as the transactions of the scheme took place in 1927, they were well outside of the statutory period. Section 43 of the Finance Act, 1940, was intended to catch dispositions, etc., by tenants-for-life which would otherwise result in avoidance of Estate Duty. By sub-Section (2), exemption was to be given where the disposition was made outside the statutory period (then three years), and *bona fide* possession and enjoyment as defined was immediately assumed to "the entire exclusion of the person who had the interest and of any benefit to him by contract or otherwise."

Referring to the particulars set out in the heading to this note, claims were made upon the executors of the deceased for Estate Duty in respect of the outstanding instalments of the purchase money and the value of the 100,000 Preference shares which the deceased had retained; and liability as to these had been admitted. The Crown, however, also claimed, under Section 43, Estate Duty on the 50,000 Ordinary shares and, alternatively, under Section 46 of the said Act, on a proportion of the company's assets corresponding to the benefits accruing to the deceased from the company. The two claims were "not only alternative but wholly independent of each other" and the Court of Appeal, having held that Section 43 applied by reason of the application of the statutory hypothesis contained in Section 56, had not considered the question whether, failing Section 43, Section 46 applied. Their Lordships were unanimous that Section 43, with or without the aid of Section 56, had no application and they thereby definitely established the principle that the entire exclusion of a donor from possession and enjoyment of a particular beneficial interest in property is not inconsistent with the possession and enjoyment by the donor of some other beneficial interest in the property which he has not included in the gift, whether the gift is a benefit by contract or otherwise.

Upon the application of Section 46 which deals with transfers to companies, their Lordships were very divided in opinion. By the Section, transfers in a fiduciary capacity are exempted; but, by Section 58, the word "transfer" is given "extended or artificial meanings"; whilst, by sub-Section 58 (5), the word "fiduciary" is limited in meaning. So far as the transfer of the settled lands was concerned, their Lordships decided, Lords Radcliffe and Normand dissenting, that the transfer was made by the deceased in a fiduciary capacity as tenant-for-life. As regards the investments transferred to the company, the deceased as tenant-for-life would be transferor in a fiduciary capacity; but if the transfer was regarded as by way of exercise of the general power of appointment, it would be in a non-fiduciary capacity. Their Lordships, Lords Simonds and Oaksey dissenting, held that the Crown had an option to regard the transfer as being in a non-fiduciary capacity and so caught by Section 46.

Upon the question whether the payment to the company of £100,000 as subscription for the Preference shares constituted a "transfer of property" to the company, their Lordships were again divided. Lords Simonds, Oaksey and Normand, Lords Radcliffe and Tucker dissenting, held that it did not. As regards the loans to the deceased by the company during the last three years of his life, it was held that by virtue of Section 47 any "periodical payment" out of the resources of the company was to be treated as for the deceased's "own benefit" and Lord Radcliffe declared that under the Statute:

> a loan without interest is treated as equivalent to other payments made in respect of loans at normal interest, high interest or even exorbitant interest.

The loans in question were by their terms undoubtedly "beneficial" to the deceased; but in the *Vestey* case (1946-9, 31 T.C. 1, 1949, 1 All E.R. 1108), it was held in the House of Lords that loans to a settlor by trustees would have to be at "commercial rates" and, so, would not be "benefits" for the purposes of sur-tax under Sections 38 and 40 of the Finance Act, 1938. It is difficult to reconcile the two cases on this point; but the opinion may be expressed that, whilst in *Vestey* the laying down of a general principle was necessary, here it was not and, to this extent, was *obiter*.

The Student's Tax Columns

LOSSES—III

General Rule 21 Assessments Treated as a Loss (Section 19, Finance Act, 1928)

WHERE AN ANNUAL PAYMENT IS PAID OUT OF PROFITS brought into charge to tax, the payer recovers tax (which he keeps) from the payee by deduction under General Rule 19, so he does not bear the tax. If, however, the annual payment is not paid out of profits brought into charge to tax, the payer (as a result of General Rule 21) must deduct tax from the payee but must pay the tax over to the Revenue. He is thus in the same position as if he had never deducted tax; nevertheless, he is not allowed to deduct from his profits the amount of the annual payment.

If the annual payment would be a proper business expense but for the Rules, i.e. if it is laid out wholly and exclusively for the purposes of the trade but cannot be deducted as an expense because of the prohibition of the deduction of any payment from which tax is deductible, the taxpayer would be out of pocket were it not for the relief now to be explained.

This can best be illustrated in the case of a new business so as to avoid complications of "preceding year" assessments.

Illustration. X, with no other income, started business on April 6, 1950, and made up accounts to April 5, 1951. The profits adjusted for income tax were £400, after disallowing a deduction of £160, ground rents and royalties.

For 1950-51, X has an income brought into charge to tax of £400. Ignoring allowances, he therefore pays:

Tax at 9s. in the £ on ...	£400 =	£180
But deduct tax at 9s. in the £ on	160 =	72
Therefore bears tax on ...	£240	£108

He therefore suffers tax on his true profit. Allowances would be given on the £240 only, of course, as it is his sole income.

Had X's profits been £100 only, however, the position would have been:

Profits taxed	£100 at 9s. =	£45
General Rule 21 assessment on £160 —		
£100 ... ... =	60 at 9s. =	£27
Tax paid on	£160 =	£72
Tax deducted on	£160 =	£72
Tax suffered		nil

But X has really lost £60 on his year's trading (profit £100 *less* charges £160).

He was not allowed to deduct the £160 from his profits because he was recouping tax thereon. But the tax on £60 has had to be paid over as such, and he is in the same position as if he had no right to deduct tax.

To put this right the £60 is regarded as a loss for Section 33, Finance Act, 1926, and can be carried forward.

The Rule is that where a person has been assessed under General Rule 21 in respect of a payment made wholly and exclusively for the purpose of a trade, profession, etc., the amount of the assessment may be carried forward as a loss (for a maximum period of six years following the year of assessment).

Illustration. Y's income for 1950-51 is as follows:

House—net annual value ...	£50
Business profits (preceding year) ...	200
Dividends	100
	£350
Business royalties paid	£500

Yet Y gets no allowances, as the £350 income covers £350 royalties under General Rule 19. He is also liable under General Rule 21 on £150, which can be carried forward as a loss (latest year for relief 1956-57).

An easy way of remembering is that Y had an income of £350, but had to pay tax on £500, leaving him £150 to the bad! The fact that he deducts tax is irrelevant, so long as the annual payment would be a proper business expense but for General Rules 19 and 21.

Illustration.

	£		£
Royalties	160	Profit before royalties ...	300
Real profit	140		
Royalties	360	Profit before royalties ...	300
		Real loss	60

In the first case tax is borne on £140, as a result of Rule 19. In the second, no tax is borne in the year, but the taxpayer is £60 down, for which he can claim relief under Section 19 of 1928—he has only acted as a collecting agent on the Rule 21 assessment on £60, but has still suffered a loss.

Loss in a Business which is Acquired by a Company

A company is a distinct person from its members. So, when an individual transfers his business (or is a partner in a business which the firm transfers) to a company in consideration solely or mainly of the allotment of shares of the company to the individual(s), the business is assessed as discontinued and any loss made before the transfer is not available for relief to the company.

Yet the change of ownership is technical. Whereas the individual previously owned the business (or his share in it), he now owns shares in the company which owns the business. Some relief for the loss is therefore only right.

Section 29, Finance Act, 1927, provides the relief. So long as the shares are in the beneficial ownership of the transferor of the business throughout the year of assessment for which he claims, and for which the company is carrying on business, he can claim the set-off of the loss against his income from the company. The six years' time limit runs from the year in which the loss was incurred. It is set off against Schedule E and other income requiring assessment (e.g. rent) before being set off against dividends. (Any

repayment claim must be made within one year after the end of the year of assessment.)

Illustration. In the year to December 31, 1947, A made a loss in his business of £2,200; no claim arose under Section 34.

In the year to December 31, 1948, he made a profit of £300.

On July 31, 1949, he transferred the business to a company in consideration of the allotment of shares to him and his nominees (he remained the beneficial owner). The profit to July 31, 1949, was £350.

In the period from August 1, 1949, to April 5, 1950, the company paid him director's fees of £200 and rent of £120 (N.A.V. £150 per annum). In the year to April 5, 1951, the company paid him fees of £500, rent £180, dividend £55 free of tax.

		Assessment £	Loss cd. fd. £
A's business:			
1948-49	Penultimate year increased from nil to actual (ignoring fractions of months)		
	$\frac{9}{12} \times £300 + \frac{3}{7} \times £350$ =	375	
	Less loss brought forward	375	1,825
		nil	
1949-50	Ultimate year, $\frac{4}{7} \times £350$ =	£200	
	Less loss brought forward	200	£1,625
		nil	
A's income from Company:			
1949-50	Fees	200	
	Schedule A (8 months)	100	
		300	
	Less loss brought forward	300	1,325
		nil	
	Reclaim all tax deducted by company		
1950-51	Fees	200	
	Schedule A	150	
	Dividend	100	
		450	
	Less loss brought forward	450	875
		nil	

and so on till the loss is used up or the end of the year 1953-54, which is the last year for relief.

(To be continued)

Letters to the Editor

Co-operation with Government Investigating Accountants

SIR,—May I, through the medium of your columns, draw attention to a matter which may be of interest to many practising accountants?

For some time now it has been the custom of Government Departments exercising jurisdiction over price control, on being asked by trade organisations to adjust controlled prices in the light of changed conditions, to engage accountants to carry out an investigation in order to ascertain what profits have in fact been made by individual members of the trade concerned.

The investigating accountant very naturally seeks the assistance of the trader's accountant in order to obtain his results with the minimum of work and time. Obviously the trader's accountant is normally very happy to be of as much assistance as possible and in addition to placing his existing records at the disposal of the investigator may find himself spending time, amounting in all perhaps to several days, explaining accounting methods and generally assisting the investigation.

As things are at present, the investigator is remunerated by the Government Department concerned on the basis of time spent by his various grades of employees. No provisions exist whereby the trader's accountant can be remunerated for the time he gives to the job. Clearly he cannot charge his client, for why should a client pay for such work? He cannot charge the Government Department concerned. He cannot charge the investigator, for although the latter will have been saved a considerable amount of time and effort he is only remunerated by the Government Department on the basis of the time spent by himself and his staff.

Whilst no accountant would be likely to withhold his assistance on account of there being no fee, it seems grossly unjust that there should be no means whereby he can be paid for his time spent. Were he not to assist, the investigator would draw a substantially higher fee from the Government Department, and it seems that part at any rate of this saving ought to be paid by the Government Department to the accountant who has assisted in making it.

Yours faithfully,

J. ALISTAIR FORDYCE, A.S.A.A.

London, E.C.1.

October 2, 1951.

Stock Turnover

SIR,—Your article in the September issue of ACCOUNTANCY on "Over-trading" was most timely. One of the great problems affecting wholesalers and retailers to-day is shortage of capital, and the possible need to accumulate larger stocks in anticipation of possible shortages owing to the rearmament drive. If, however, stocks exceed a certain figure, the entire business can be plunged into difficulties through consequent shortage of working capital.

I should be very grateful if any of your readers could help me to determine how many times a year an electrical wholesale business can reasonably be expected to turn over its stock. I have been asked to advise on this point in connection with an electrical wholesale business with the following main departments:

1. Domestic Applicances.
2. Electric light fittings, lamps and wiring accessories.
3. Radio and television.
4. Cables, flex, conduit tubing, switch gear.
5. Batteries.

By stock turnover, I understand that the sales are reduced to cost price and divided by the average stock carried during the year. If the turnover was £100,000 and the average rate of gross profit 15 per cent., then sales at cost would be £85,000. If the average stock was £17,000, then the rate of stock turnover would be five times per annum. Friends in departmental stores and in the furniture, radio and electrical retail trade state that they try to turn their stock over from four to five times a year. It would seem that in the wholesale trade, working on a lower rate of gross profit, the stock turnover should be much greater than five

times a year, but I am unable to obtain definite information on this point. If any of your readers can give me a general indication of average experience for an electrical wholesale trade with departments similar to the above, I should be very pleased to read their replies.

Yours faithfully,
E. C. WHITE, A.S.A.A.

Derby.
September 25, 1951.

[The writer of the article "Over-trading" informs us that, as far as his information goes, large manufacturers of electrical equipment are at present carrying only three to four months' stock and wholesalers even less. The conditions are abnormal, for there is an acute shortage of supplies and wholesalers are living a hand-to-mouth existence as "fully-supported dependents" of their manufacturers. We hope readers who have experience of the trade will write to us on the point raised by Mr. White in his letter.—Editor, ACCOUNTANCY.]

Repairs to Recently Acquired Business Premises

SIR,—It has been suggested that a firm stand should be taken against local Inspectors' unwarranted extension of the principle in the *Law Shipping* case, but I am still finding difficulty in getting repairs allowed to business premises where these are incurred soon after acquisition.

If a property maintenance claim were submitted, all the repairs would be competent, and I should be grateful to have the views of your taxation correspondent and readers' experience in other localities.

Yours faithfully,
JAMES N. WHITMILL, F.S.A.A.

Ventnor, I.W.
October 5, 1951.

[Our Taxation Correspondent replies as follows: "The suggestion mentioned in the letter from Mr. Whitmill applied mainly to farms, where there can be no question of any repairs being disallowed, since Section 32 of the Income Tax Act, 1945, covers the whole of the repairs which would be allowable in a property maintenance claim, to which the *Law Shipping* case has no relevance. Since the repairs would not be restricted, the Inland Revenue are prepared to allow them to be deducted in the accounts.

For business premises the position is not quite so clear-cut, because there is always the risk that the repairs allowed in the accounts might, on average, exceed the annual value and the excess would not be allowable in a maintenance claim. So long as it is clear that the repairs do not exceed those which would be allowable on average in a maintenance claim and an undertaking is given not to claim for any excess over the average, I do not see why the Inland Revenue should not allow the repairs to be charged in the accounts. But where business premises are in question one cannot insist so strongly as where the property is agricultural. The *Law Shipping* case applies to accounts under Schedule D, Cases I and II, and it is only where Section 32 of the Income Tax Act, 1945, holds that insistence is without question justified.—Editor, ACCOUNTANCY.]

"Private" Market Gardens

SIR,—A specimen computation for a "private" market garden was given in the October issue of ACCOUNTANCY in which appeared—"Supply to House, £40."

Would a proportion of the loss be disallowed on the grounds that part of the market garden is being run for the owner's own benefit?

If sales are made to customers at a loss, the owner is also selling to himself at a loss and claiming relief for it.

P. BAILEY,
Final Student.

London, S.E.4.
October 10, 1951.

SIR,—With reference to the note on "private" market gardens which appears in your current issue (page 386), I should like to mention that where, as in your specimen computation, the proportion of the produce consumed in the house is large in relation to sales, Inspectors of Taxes will often seek to restrict the amount of loss which they admit for relief under Section 34, Income Tax Act, 1918. Assuming that in the example given the supplies to the house had been brought in at a figure approximating to the sale prices of the rest of the produce, the computation for Section 34 would probably be $£154 \times \frac{114}{114 + 40} = £114$, and there would also be a restriction of the capital allowances.

Yours faithfully,
JOHN G. HASTINGS.

London, S.W.1.
October 12, 1951.

[Our Taxation Correspondent replies that the item "Supply to House, £40," should be calculated at cost price so long as this does not exceed the market value. Inspectors of Taxes in various parts of the country have suggested that cost should be taken in all cases, but this would give a ridiculous figure in some instances. In no circumstances can the item exceed the market value of the produce used. It must be obvious that anyone growing produce cannot make a profit or loss out of himself, and if he were required to credit more than the market value, he would sell all his produce and go out into the market and buy for the house.

Our Tax Correspondent further states that there is no question of disallowing a proportion of the loss on the grounds that part of the market garden is being run for the owner's own benefit. Inspectors of Taxes often seek to restrict the amount of a loss, but that is no reason why professional accountants should acquiesce in something which is contrary to the Acts.

Apart entirely from the subject-matter of these two letters, there is abundant evidence in other correspondence reaching us that, in general, many accountants are prone to accept the decisions of Inspectors of Taxes uncritically without themselves looking into the Acts to see whether the Inspectors are justified.—Editor, ACCOUNTANCY.]

Blocks of Flats

SIR,—With reference to the computation of maintenance relief regarding blocks of flats on page 386 of your October issue, I should like to point out that while the computation as prepared reflects the true statutory position, the Inland Revenue normally grant relief by reference to the restricted repairs allowance granted, by deducting the notional addition for tenants' repairs from the appropriate repairs allowance; thus in your example, the amount deductible from the average repairs would have been reduced by £82, thus increasing the net relief by this amount.

Yours faithfully,
J. RENVOIZE, A.S.A.A.

Worthing,
October 15, 1951.

[Our Tax Correspondent writes: There is no reason why the restricted repairs allowance should be taken into account. Where a tenant is bearing the landlord's burden this is reflected in an addition to the gross annual value; the repairs allowance is still that given to the owner of the property, and it is that figure which should be compared with his average expenditure on maintenance. I shall be interested to hear whether other readers have had the same experience as the writer of the above letter.]

Stock Valuation for Income Tax

SIR,—We should be much obliged if you could assist us in connection with the location of a certain British tax case which would have a bearing upon the following set of circumstances:—

Retail shop sold as a going concern. Premises, goodwill and stock, £5,000. Divided arbitrarily by the deed. Stock stated by deed to be £1,400. Stock not taken at date of transfer. Stock actually (as near as may be ascertained) £200 in excess of £1,400. Adverse income tax effect on incoming client.

The Revenue contend that the deed is absolutely binding. Our contention is that the deed is only binding on the two parties and not on third parties—and not even binding on vendor and vendee if error can be proved.

The matter will be for hearing at the next Appeals before the Special Commissioner, and we believe that there is a recent

British tax decision in favour of our viewpoint. We are unable to trace this here, but believe that it was noted in ACCOUNTANCY some time in the last twelve months.

We should mention that while British tax cases are of no direct standing in the Republic of Ireland, they nevertheless are constantly used for reference and have often full bearing on decisions.

Yours truly,

McNUTT, McLARNON & HAMILTON.

Sligo,
October 6, 1951.

[We informed Messrs. McNutt, McLarnon and Hamilton that in our opinion under United Kingdom law the position would be as follows:

(1) Where a business is sold as a going concern for undivided consideration a disputed question of apportionment is one of fact within the jurisdiction of the Commissioners.

(2) Where, however, the parties to the agreement themselves in the contract apportion the consideration, the apportionment will normally bind the parties but will not, of necessity, bind the Revenue. The onus of displacing the apportionment under the contract, will, however, lie on the latter. In our experience, it is practically impossible for the Revenue to succeed in this task except by establishing that the transaction was colourable, a very difficult thing in law even where the reader of the law report has a pretty shrewd idea of the real position.

(3) It must be remembered that a transfer by deed is in law a solemn matter and we think neither of the parties would be entitled to impeach it to his own advantage unless he could show that he had been the victim of fraud or deceit by the other party.

For a case where a sale transaction was held to be not *bona fide* see *Kirby* v. *Steele* (1946, 27 T.C. 370).

(4) Prior to 1938, the Revenue suffered heavy losses of income tax by fictitious stock figures; and Section 26 of Finance Act, 1938, was framed to remedy this. (An even more important source of Revenue loss by fictitious figures was dealt with incidentally by the scheme of balancing charges and allowances contained in Income Tax Act, 1945).

(5) We know of no recent tax case establishing the proposition set out by our correspondent.

Messrs. McNutt, McLarnon & Hamilton have now advised us of the Special Commissioner's decision, which is that the deed is absolutely binding.—EDITOR, ACCOUNTANCY].

The Taxability of Casual Receipts

C. GREATHEART, ESQ.,
c/o ACCOUNTANCY.

DEAR MR. GREATHEART,—As a burglar of considerable standing, I should like to settle your queries in October ACCOUNTANCY (page 379).

I pay my dues of income tax on my earnings, after allowances for expenses incurred. I had a bit of an "onky tonk" with the Inspector when I first started, but he pointed out that illegality was no barrier to assessment on the principles laid down in *Mann* v. *Nash; Southern* v. *A.B.;* and *Lindsey, Woodward and Hiscock* v. *Commissioners*. As, however, fares, replacements of jemmies, etc., are laid out "wholly and exclusively for the purposes of trade," I receive allowances for these against the gross receipts. The Inspector pointed out that no allowance can be given for penalties sustained (*Inland Revenue* v. *Warner and Co., Ltd.*, 1919) as this would mitigate the penalties. Needless to say, the Inspector indirectly paid the first year's tax with his hat, umbrella, and watch.

My usual "fence" is a very honest trader, unlike others in "respectable" lines, and pays his nine and sixpence. His illicit receipts are incorporated with his normal earnings. As he has often said to me, it is best to declare everything to the Inland Revenue, then you cannot go far wrong.

I am not an authority on the "dog collar's" problem, but I reckon he'll be the sort to get away with it just because the policy is one of indemnity that strictly rules out profit.

Yours faithfully,

WILLIAM SYKES, F.B.I. (Fellow Burglar Institute); F.C.A. (Fellow Cat-burglar's Association).

Somewhere in Devon.
October 10, 1951.

FINANCING THE HOSPITAL SERVICE

Financial problems confronting the hospital service were reviewed at a meeting of the Association of Chief Financial Officers held in London on October 6.

Since the inception of the National Health scheme in July 1948, increasing demands on the service, coupled with rising costs and prices, had caused a limit to be placed on the total sum available for hospitals.

Effective steps had already been taken to secure economies. Experiments in hospital costings made by the Nuffield Provincial Hospitals' Trust and the King Edward's Hospital Fund at the request of the Minister of Health aimed at even more economic administration.

The introduction of hospital cost statements on a uniform basis should, in time, enable hospital expenditure to be better gauged and regulated. In the meantime, the new procedure and timetable for dealing with annual estimates should make for better spending of the available funds.

AUSTRALIA AND NEW ZEALAND BANK

We have received a booklet entitled "October First, 1951," commemorating the merger of the Bank of Australasia and the Union Bank of Australia, Ltd. The combined institution is known as *The Australia and New Zealand Bank, Ltd.* The booklet, which is illustrated throughout, traces the histories of the two banks and includes a short survey of the agriculture, industry and commerce of Australia and New Zealand.

The merger will provide an even stronger organisation which will accelerate the policy of opening branches in growing areas, and will offer its customers more widespread facilities and fuller technical services than either of these two well-known banks could provide alone.

ACCOUNTANTS AS "PRACTISING METAPHYSICIANS"

"The truth is that the accountant and the auditor are dealing with imponderables; they have to make a certain pattern of figures called a balance sheet an accurate representation of the state of the company at a given date; showing as far as possible not only what has happened in the immediate past, but what is likely to happen in the immediate future. So far as the liabilities side of the balance sheet is concerned the answer is easy. These figures can be ascertained exactly from the company's books. . . . Not so the assets side. Here the question is one of values all the time. . . . What has to be produced is an abstract picture of a company in the form of a pattern of figures. The reality is the factory, offices, workers, managers, materials, goods and work in progress. Any value these have lies in the expectation that this assemblage of materials and men will go on producing. To put values on some of the component parts of this whole is not a matter of figures but of intelligence. . . .

"It is because this process of estimation, valuation and judgment is based on abstract general reasoning, because the figures in the balance sheet are 'immaterial, incorporeal and supersensible,' that accountants are practising metaphysicians. When the Shakespearean steward said to his master 'Call me before the exactest auditors and set me on the proof,' he asked for more than arithmetic."—From an article, "Accounting as Metaphysics," by Dr. Colin A. Cooke, Fellow and Bursar of Magdalen College, Oxford, in *District Bank Review*, September, 1951.

The Month in the City

Hoping for a Change

THE PERIOD AFTER THE ANNOUNCEMENT OF the General Election was full of events which might be expected to affect markets. The Labour manifesto was vague on a number of points which might affect the investor, but its general purport was even more discouraging than the programme of dividend limitation, while the Conservative policy, taken at its face value, was not very encouraging either. The market, however, seemed to have decided that the proposal to revise the basis of taxation of profits—containing as it did the promise that funds reserved for replacement would receive some relief—was more important than the threat of a new E.P.T. The investor will have to derive what consolation he can from the fact that if a new E.P.T. will hurt him a good deal it will almost certainly hurt everybody else more than a little.

A Steady Rise

Nevertheless, the markets took this tax threat in their stride—as well as other developments far more serious. These included such diverse events as the final exodus from Abadan, the Egyptian abrogation of the treaties with this country concerning the Canal and the Sudan, and the publication of figures for the gold and dollar reserves (which are even worse than anyone had expected, at least until almost the last moment). After the first leap in quotations on the election announcement, there was a moderate relapse, produced in the main by the fact that professional speculators were taking the chance to lighten their books—the normal procedure in face of increased uncertainty. From about the beginning to almost the middle of October there was an uninterrupted rise in almost every major section of the market. The larger rises were in British industrial Ordinary shares and, later, in gold mines on the change by the International Monetary Fund in its policy regarding "free" gold sales, but the whole fixed interest group also improved. Such recessions as occurred were mainly in foreign bonds and American stocks and some other overseas investments which had been run up by attempts to escape the impact of dividend limitation. The net changes as reflected in the index number of the *Financial Times* between the eve of the election announcement, September 19, and October 22, are as follows: Government securities, from 101.35 to 102.11, fixed interest in general, from 115.59 to 115.73; industrial Ordinary, from 135.3 to 137.1 (after being three points lower); gold mines, from 111.12 to 113.87. The rises are not large, but that there should not be a fall is, in all the circumstances, remarkable. The explanation appears to be that there was added to the force of past and existing inflation, a widespread belief that the Conservatives would be returned with a considerable majority.

Premium Gold Sales

The decision of the I.M.F., to transfer to individual countries the onus of deciding whether or no gold sales shall be permitted at a premium, is causing some considerable adjustment of investment values among gold mining shares. What this means in practice is that other producers may be given the advantages which for some time has been possessed by mines under the Union Government. The general response of Governments of producing countries has been to permit sales up to 40 per cent. of output, provided that they are effected in U.S. dollars. In the case of Canada, and possibly elsewhere, there are offsetting disadvantages in adopting this alternative. It is scarcely necessary to point out that it is an increase in the number of people permitted to buy gold freely which will benefit the mines rather than an increase in the supply of free gold. Thus the South African mines may well suffer if the new permission is used to any considerable extent. Already there has been some decline in the premium. But its level is also a reflection of fears of war and disbelief in the value of existing currencies. As to the views officially expressed in the Union that this is only a prelude to a rise in the official dollar price for the metal, there seems to be no evidence so far that any considerable body of opinion in the U.S.A. favours paying a higher price for gold. To do so would be to invite further inflation.

Commodity Prices

After a fairly protracted period of declining or stationary quotations there is now some evidence that the rise which had been foretold for the Autumn is already on the way. The September Board of Trade index still showed a modest decline, but only because textile materials fell more than enough to offset a number of rises, among which was one in a very important material, rubber. Since then, however, there have been a number of rises in materials which have no true international market, while both wool and tin have risen sharply. This may help to solve the dollar problem of the sterling area as a whole, but it will accentuate the dis-equilibrium of the United Kingdom's balance of payments. Unless there is a much more vigorous drive to increase production of raw materials and unless those who undertake it are exceptionally fortunate, there is no doubt that one of the major problems in maintaining the living standard of this country will be the swing in the terms of trade against the manufacturing and in favour of the raw material producing countries. It is even more necessary than ever that the output of the few indigenous raw materials, of which coal is by far the most important, should be increased and that the use of all materials should be economised.

THE ECONOMIC EFFECTS OF TAXATION

The University of London Department of Extra-Mural Studies and the Institute of Bankers are arranging a series of six evening lectures and discussions on "The Economic Effects of Taxation." These will be held on Tuesdays, November 6—December 11, 1951, at 6.0-7.30 p.m. at The Beaver Hall of the Hudson's Bay Company, Garlick Hill, E.C.4.

November 6, "The Role of Taxation," by Professor R. C. Tress, Professor of Political Economy in the University of Bristol.

November 13, "Taxation and the National Economy," by Professor R. C. Tress.

November 20, "Taxation and the Individual," by Mr. S. P. Chambers, C.B., C.I.E., Finance Director, Imperial Chemical Industries, Ltd.; Director National Provincial Bank, Ltd.; formerly Commissioner of Inland Revenue.

November 27, "Profit Taxation and Rising Prices: Accounting Aspects," by Professor W. T. Baxter, Professor of Accounting in the Univeristy of London.

December 4, "Profit Taxation and Rising Prices: Social Aspects," by Professor W. T. Baxter.

December 11, "Taxation and Economic Progress," by Mr. Roland Bird, Deputy Editor, *The Economist*.

The fee for the whole course is 10s. Enquiries and applications for tickets, enclosing remittances, should be addressed to the Secretary, The Institute of Bankers, 10, Lombard Street, E.C.3, (Telephone: Avenue 3531) and marked "The Economic Effects of Taxation" on the cover. Cheques and postal orders should be made payable to The Institute of Bankers and crossed Martins Bank, Ltd.

Points from Published Accounts

Multiple Accounts

THREE SETS OF ACCOUNTS ARE SUBMITTED for the information of shareholders by *H. A. Saunders*—those of the parent and the subsidiary, and an amalgam of the two. Such detailed presentation seems to be unnecessary, as the subsidiary is wholly-owned and carries on a similar business to that of the parent. If businesses are dissimilar there is much to be said for going to this degree of trouble. *Cowburns and Scotts Beverages* gives its shareholders no less than five sets of accounts. The balance it shows as available for appropriation includes four exceptional items and the balance brought forward from the previous year.

Showing Dividends Gross

Where there are several different classes of capital the amounts that their dividends absorb should be shown separately. *Anglo-Thai Corporation* has two classes of shares, and it shows the interims paid at their gross amount, adds them up, and then deducts tax, following a similar course with the final distributions. This means that, unless he does a couple of calculations, the Ordinary shareholder cannot compare his net dividend requirements with the net profit as shown in the accounts. The consolidated profit and loss account strikes a balance, being the profit dealt with in the accounts of the parent, and on the credit side of the appropriation account there is what amounts to a parenthetic summary of the parent's profit and loss account, namely:

	£	£	£
Balance brought down			177,683
Profit before charging depreciation and taxation		407,225	
Dividends from investments (before deduction of tax)		22,413	
Dividends from subsidiaries (before deduction of tax)		19,818	
Provisions		12,602	
Reserves		11,619	
		473,677	
Less: Depreciation of fixed assets	27,235		
Taxation on profits for the current year:			
United Kingdom: Income tax	190,820		
Profits tax	66,000		
Abroad	11,939		
		295,994	
		£177,683	
Settlement of war damage claim:			
On capital account			68,000
On revenue account		173,849	
Less tax arising thereon		101,972	
			71,877
Balance brought forward from previous year			84,873
			£402,433

The additions to reserve and undivided profits by the subsidiary are deducted before striking the balance of £177,683, so that shareholders might tend to under-estimate the cover for their dividends. They can see at a glance, however, that Preference and Ordinary dividends are exceptionally well covered. Commendably, the accounts show at the very bottom amounts accruing from the settlement of war damage claims.

There are twelve footnotes to the accounts, covering two pages!

Exceptional Items

Before striking a balance carried to appropriation account, *Armstrong Shock Absorbers* debits transfers to fixed assets replacement reserve and reserve for future servicing, and credits tax adjustments relating to previous years. On the other hand, a tiny £7 balance of Preference share issue expenses is treated as a below-the-line item.

There are no below-the-line items in the accounts of *Crossley Brothers*, which are very well presented, but an investment realisations surplus of £40,305 is brought to credit before striking the net profit. This source of profits has virtually dried up, so it would have been desirable to strike a net profit before bringing it to credit. The company differs from Armstrong Shock Absorbers in treating a big transfer to fixed assets replacement as a reserve appropriation. Accompanying the report is a brochure which was evidently prepared for the Engineering and Marine Exhibition at Olympia. It contains pictures of the company's power units; they are not exactly inspiring to the lay reader, but the descriptions make most interesting reading, and are a valuable supplement to the information given by the chairman on the customers and overseas markets served by the company.

There are five exceptional items debited or credited before *Aspro* strikes a group net profit, or one less than in the preceding year. Their total is so big that they should, for the benefit of shareholders, have been excised from account before striking the net profit of the year. *Blackwood, Morton* really does strike a group net profit before taxation, which is carried to the appropriation and tax deducted. It is worth reproducing the complete picture both at this stage and thereafter.

	£	£
Net profit of the group, subject to taxation, brought down		643,413
Less: Taxation on profits of the year:		
U.K. income tax	340,453	
U.K. profits tax	127,600	
		468,053
		£175,360
Over-provision for taxation in previous years		—
		£175,360
Deduct: Retained by subsidiary companies for current year		4,505
Dealt with in the accounts of Blackwood, Morton & Sons, Ltd.		170,855
Balance brought forward by Blackwood, Morton & Sons, Ltd., from previous year		160,325
		£331,180
Balance relating to Blackwood, Morton & Sons, Ltd., brought down		161,930
Balance relating to subsidiary companies:		
Brought forward from previous year	13,336	
Add: Retained for current year	4,505	
		17,841
		£179,771

On the opposite side are shown the reserve transfers and the net interim and final dividends on the single class of share capital.

STAMP MEMORIAL LECTURE

Professor L. C. Robbins, C.B., M.A., B.SC., will give this year's Stamp Memorial Lecture. It will be on "The Balance of Payments." Admission to the lecture, which will be given at the Senate House, University of London (Malet Street, W.C.1) on Tuesday, November 20, at 5.30 p.m., will be free and tickets will not be required.

Publications

FINANCIAL MANAGEMENT. By Raymond J. Chambers. (*Law Book Co. of Australasia Pty., Ltd. Price 37s. 6d. net.*)

Mr. Chambers defines "financial management" as "the forecasting, planning, organising, directing, co-ordinating and controlling of all activities relating to the acquisition and application of the financial resources of an undertaking." These words could be used to describe *management* without the adjective, and the text does indeed touch on most management activities. The book is a general survey of management problems, with special reference to the use of accounting, and other statistical techniques for the analysis of financial data, in the solution of them. The treatment is necessarily uneven in places, because the author has planned to meet the requirements of two different classes of people, of which the first consists of accountants, secretaries and other similar specialists in need of a more general understanding of the nature of management problems, and the second of technical executives, managers, and the like, who require a wider knowledge of business problems to supplement their special *expertise*.

Mr. Chambers is to be congratulated on the comprehensive nature of his book, which, by providing the background for a deeper study of business problems, helps to fill a gap.

It is customary in a review to criticise shortcomings. Like all human work, Mr. Chambers' book has its defects. One of these is the inevitable result of compromise between size of book and ground covered. The author has been obliged to touch on many problems without indicating the deeper implications. It is difficult to avoid this in what the reviewer thinks should be regarded as an introductory book, but in view of his stated objects, Mr. Chambers could perhaps have maintained a rather more critical vein with the object of suggesting to his reader that, in business, the complexity of the data is so great that there is seldom a "correct" solution.

In the second place there are a number of passages where the reviewer considers it would have been possible, without unduly lengthening the discussion, to qualify the statements made.

Two examples of these passages may be given. Mr. Chambers' description of share premiums as "dividend-free" funds, and his suggestion on page 63 that the issue of bonus shares reduces the amount of such funds, is curious. Does a shareholder expect a smaller dividend merely because part of his capital subscription is described as "capital reserve" rather than "issued capital"? On page 120 it is suggested that the calculation of net tangible asset values per share ". . . gives a measure of the sums available to repay invested capital in the event of liquidation, *assuming that asset values are reasonable*," (the reviewer's italics). That this is a big and frequently unjustified assumption might have been made clearer.

On the other hand, Mr. Chambers' treatment is frequently satisfying and he often draws attention to implications in accounting data too frequently ignored in accounting texts. It is refreshing, for example, to find him pointing out on page 229 the fallacy in the view, a view that is still too common—he cites a statement of the United States Securities and Exchange Commission—that opinions of values have nothing to do with accounting statements. One feels that had the author been reading his book aloud, or delivering the content in the form of a lecture course, he would often have stopped to expound and qualify where, in the text, he is silent.

The book will be a useful addition to business students' reading lists. It would also form a framework for a lecture course or for class discussion. It is written with reference to Australia, but as legal problems, including those of taxation, are not dealt with extensively, it is for the most part equally relevant to British conditions. A bibliography is provided. H. C. E.

A GUIDE TO THE COMPLETION OF AN INCOME TAX RETURN. By David Shrand, A.S.A.A., C.A. (S.A.). (*Juta & Co., Ltd., P.O. Box 30, Cape Town. Price 10s. 6d. net.*)

ILLUSTRATIONS TO INCOME TAX. By A. S. Silke, M.COM., A.S.A.A., C.A. (S.A.). Fourth edition. (*Juta & Co., Ltd., Cape Town. Price £2 17s. 6d. net.*)

The author of the first of these books will be known to readers of ACCOUNTANCY through his articles on Income Tax in South Africa which appeared in the last two issues. Mr. Shrand's approach is explained in the preface, where he states:

> To the layman, the task of completing an income tax return assumes formidable proportions, particularly as the income tax form has grown in dimensions from its early beginnings of a few unassuming pages to the present impressive document of twelve closely printed pages with their diversity of instructions and notes.
>
> The purpose of this work is to assist the taxpayer in completing his income tax return, by elucidating the income tax principles involved.

There can be no doubt that this purpose is admirably fulfilled by the *Guide*, and practitioners in Britain, who are finding it increasingly necessary to have a working knowledge of taxation in other countries, will find in its pages valuable guidance and the solutions to most of their problems.

In general, the return forms under the Union Act require far more detail than the corresponding documents in this country, and these requirements are fully illustrated in the text. Schedules G and H relating to farming operations are remarkable examples of standardisation.

A striking feature of the return required from companies is the list of twelve questions which must be answered by all companies, whether public or private. The first of these reads:

> Did the company's auditor submit any special reports to the directors during the period of the accounts supporting this return or in respect of those accounts?

The auditor of a company is, therefore, faced with particular responsibility when submitting any special report to his principal, an idea which was carried further in the Bill for regulation of the accountancy profession in the Union.

The *Guide* is a concise and practical work of reference.

Illustrations to Income Tax was first published in 1946 and with the author's other work, *The Taxation of Private Companies*, forms a comprehensive guide to taxation of income and profits in South Africa, enriched by abundant and detailed illustrations.

The range of taxation in South Africa is far wider than in this country, comprising, for the individual, normal tax, super tax and corresponding tax in one of the four provinces. Public companies are liable to normal tax and provincial tax, and must account for non-resident shareholders' tax on dividends paid to shareholders not ordinarily resident in the Union. Private companies generally are not themselves subject to either normal tax or super tax, the statutory income being apportionable to and assessable upon the shareholders, according to their interest in the profits. In other words, the statutory amount is allocated to shareholders, as a dividend of the same figure payable at the balancing date would fall to be allocated to shareholders at that date. That is the general principle which accords closely with the treatment of firms in this country, but there are a number of exceptions to the rule. The private company itself is, however, called upon to make a payment on account called "The Private Companies Levy" and each shareholder is entitled to claim his aliquot share of the levy as a set-off against his personal taxation.

A welcome measure of simplification was introduced, with effect from July 1, 1950, by the abolition of the Undistributed Profits Tax to which public companies were liable, but even so a study of Mr. Silke's illustrations will serve to demonstrate that the calculation of taxation liabilities in the Union is still a task for the expert.

Any problem in Union taxation liabilities for which Mr. Silke's book did not afford a clear and authoritative solution would be a difficult exercise indeed, since the text is succinct and citations of the relevant sections of the Acts appear in the illustrations themselves. *Illustrations to Income Tax* is a necessary addition to any taxation library that aims to be more than insular.

A. S. A.

THE ELEMENTS OF PUNCHED CARD ACCOUNTING. By Harry P. Cemach. (*Sir Isaac Pitman and Sons, Ltd. Price 18s. net.*)

This is a new book intended to give a basic knowledge of the functions of punched card equipment to accountancy students, the latter term, in the words of the author, being used in its widest sense. The book begins by describing the four operations in the usual punched card system, namely, punching, verification, sorting and tabulation, mainly as they are operated in a *Powers* installation. In addition, there are some useful notes on the economic adaptation and usage of cards. The book is well illustrated, both with photographs of equipment and with diagrams. The other major equipment used in this country, *Hollerith*, is also described in some detail later in the book and there are further notes on *Powers-Samas* machines and cards. In an appendix, the *Paramount* and *Findex* hand-operated systems are described to advantage.

Some of the elementary explanations of punched card accounting are pleasantly clear, particularly since the complexity of some of the operations and equipment makes description inherently difficult. Occasionally, however, the author seems to miss his trend of explanation and becomes absorbed in quasi-technical data, which would more appropriately appear in a treatise on the subject, which this book obviously does not claim to be. The author has probably found the demarcation line between important and inessential detail difficult to discover.

Three chapters are devoted to what is called "specimen applications." The author selects sales, wages and costing records and suggests how punched cards can be utilised in performing these three accounting operations. These notes are of interest to the student, but are not likely to be of fundamental use to accountants, since each installation has to be adapted to supply only the information required by the particular user. It would have been helpful to readers if the author had extended the scope of his work by discussing the factors to be considered before a punched card system is installed. The question whether or not this equipment can provide economies and advantages over the existing system is often much harder to answer than the question how to find the most satisfactory system of operation. In places, the book tends to be an encomium of punched cards.

Some of the additional punched card machines which can be used, for example, the interpreter and the multiplying punch, are described. It is to be hoped that in any future edition, details will be given of some of the later developments, such as the P.A.Y.E. operating machine.

If this review is somewhat critical, the criticism should not be taken as denigrating Mr. Cemach's book, which is a much needed and not unsuccessful effort to describe the fundamental principles of punched card accounting. This is one of the few books confined to the subject—most of the other works to which the reader might turn for enlightenment upon it cover the whole realm of mechanisation and give very little space to punched card systems. Nevertheless, the subject remains a vast one and any book upon it must provide a reviewer with abundant scope for criticism. The book should stimulate interest in punched cards in their accounting uses, and if it does, one of the objects of the author should be achieved.

J. D. N.

BUDGETARY CONTROL. By H. P. Court. (*Sweet & Maxwell, Ltd. Price 50s. net.*)

In face of an already wide choice of books, American, Australian and British, on the subject of budgetary control, the appearance of yet another would seem to be in need of some justification. Mr. Court, in his preface, tacitly admits to sharing this feeling. He claims that most other writers have tended to "describe methods they have successfully adopted in specific cases, rather than methods which may be adopted for general use." In his own book, he says, he has attempted to remedy this defect. The outcome is certainly a work written with a high degree of generality.

The book is divided into two parts, dealing respectively with planning and control. The first section covers the construction of budgets; after discussing income and expenditure (sales, man-power, materials and other expenses) it then deals with assets and liabilities (capital, stock and purchases, creditors, debtors and cash). In whatever way the subject of budgetary planning is divided up it is probable that the result must seem artificial and unsatisfactory, for, as the author points out, "the functions of a business are so closely integrated that all budgets depend upon one another, and must receive almost simultaneous consideration." They obviously cannot receive simultaneous consideration in a book. Unfortunately, Mr. Court's plan of attack produces some effect of disjointedness. It would surely seem more natural to consider cash receipts and debtors along with the sales from which they result, while purchases, materials consumption, stock and trade creditors also naturally belong together. This would leave the capital budget for separate treatment, leading finally to the cash budget into and from which all else flows.

The second part of the book is devoted to the use of the planning budgets for control purposes. This starts with an explanation of the idea of the flexible budget, and goes on to consider in detail the analysis of variances between budgeted and actual results of manufacturing and selling. Control of balance-sheet items is to be effected by comparisons between actual and standard ratios. The mechanics of replacement-cost depreciation are discussed in a penultimate chapter, and the book concludes with an all too brief description of the administration of budgeting.

This is an expensive book, and its readers will therefore be disposed to judge it rigorously. As an account of the mechanics of budgeting they will find it adequate, though not always easy to read. What is lacking, one feels, is an understanding of the delicate relationship of the budgeter to the executives who are partly responsible for originating, and largely responsible for implementing, the plans embodied in the budgets. This lack of understanding is expressed, for example, in a reference (page 11) to departmental officials working "conscientiously to their budgets, rather than to their own ideas"—as if they were not paid to have ideas and as if the budgets originated in the mind of the budget controller rather than in theirs—and in another reference (on page 46) to the data needed "by the budget controller in order to establish his [*sic*] standard material specifications." This is hardly the way to sell the idea of budgetary control to those in industry, engineers and others, who already suspect that the accountant wants to act not only his own part in the play but all the other rôles as well.

D. S.

The Royal Society of Arts is holding three Cantor lectures on "Automatic Calculating Machines," by Mr. M. V. Wilkes, M.A., PH.D. (director of the Mathematical Laboratory, University of Cambridge), on November 12, 19 and 26, at 6 p.m. The lectures will be illustrated by lantern slides and a film. Applications for tickets should be addressed to the Secretary, Royal Society of Arts, Adelphi, London, W.C.2.

THE SOCIETY OF
Incorporated Accountants

EVENTS OF THE MONTH

NOVEMBER 1

Newcastle-upon-Tyne: "Profits Tax," by Mr. James S. Heaton, F.S.A.A. The Library, 52, Grainger Street, at 6.15 p.m.

NOVEMBER 2

Birmingham: Discussion Group. Law Library, Temple Street, at 6.15 p.m.

Brighton: Dinner.

Manchester: "Economics," by Mr. D. J. Coppock, B.A.(ECON.). Students' Meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Preston: "The Costing of Overhead Expenses," by Mr. J. W. Fewlass, A.C.W.A., A.C.I.S. Preston and County Catholic Club, Winckley Square, at 7.30 p.m.

NOVEMBER 4

Liverpool: "Auditing—III," by Mr. R. G. Highcock, A.S.A.A., at 9.30 a.m. "Mercantile Law—III," by Mr. George Bean, O.B.E., LL.M., at 11 a.m. Arranged by Students' Section.

NOVEMBER 5

London: "Profits Tax," by Mr. L. A. Hall, A.C.A., A.S.A.A. Incorporated Accountants' Hall, at 6 p.m. Arranged by London Students' Society.

Luton: "Income Tax Act, 1945," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. Arranged by London Students' Society, Luton and Bedford Branch, and the Bedford, Luton and Northampton District Society of Certified Accountants. Public Library Lecture Hall, at 6 p.m.

NOVEMBER 6

Birmingham: "Some Developments in Accounting Thought and Practice," by Professor D. Cousins, B.COM., A.C.A. Joint meeting. Imperial Hotel, Temple Street, at 6.30 p.m.

Dudley: Discussion Group—"Auditing." Dudley and Staffordshire Technical College, Broadway, at 7 p.m. Arranged by Birmingham District Society.

Leeds: "Consolidated Accounts," by Mr. F. A. Roberts, A.S.A.A. Great Northern Hotel, at 6.15 p.m.

London: Luncheon. "Depreciation Allowances," by Mr. J. B. Braithwaite, chairman of the Stock Exchange. Connaught Rooms, W.C.2, at 12.30 for 1 p.m.

NOVEMBER 7

Swansea: "The Problems of Examinations," by Mr. H. K. Greaves, F.S.A.A., F.I.M.T.A., A.A.C.C.A. Arranged by Students' Section. Central Library, Alexandra Road, at 6.45 p.m.

NOVEMBER 8

Belfast: Lecture by Mr. A. R. Ilersic, B.COM. Students' meeting.

Coventry: "Taxation," Arranged by Birmingham District Society. Chamber of Commerce, Queen Victoria Road, at 7.30 p.m.

Nottingham: "The Finance Act, 1951," by Mr. James S. Heaton, F.S.A.A. Reform Club, Victoria Street, at 6.30 p.m.

NOVEMBER 9

Birmingham: "Legal and Equitable Apportionments," by Mr. G. G. Thomas, PH.D., A.S.A.A. Law Library, Temple Street, at 6.15 p.m.

Manchester: "Economics," by Mr. D. J. Coppock, B.A.(ECON.). Students' meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Manchester: "Executorship," by Mr. D. A. Lewis, LL.B., B.A.(COM.). Students' meeting (Intermediate). Estate Exchange, Fountain Street, at 6.30 p.m.

NOVEMBER 12

London: "The Finance Act, 1951—Emigration of Companies and Relations with Overseas Subsidiaries," by Mr. Frank Bower, C.B.E., M.A. Incorporated Accountants' Hall, at 6 p.m.

NOVEMBER 13 TO 16

Society of Incorporated Accountants: Examinations.

NOVEMBER 16

Birmingham: "Standard Costs," by Mr. W. W. Bigg, F.S.A.A., F.C.A. Law Library, Temple Street, at 6.15 p.m.

Manchester: "Economics," by Mr. D. J. Coppock, B.A.(ECON.). Students' meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Manchester: "Executorship," by Mr. D. A. Lewis, LL.B., B.A.(COM.). Students' meeting (Intermediate). Estate Exchange, Fountain Street, at 6.30 p.m.

Shrewsbury: "Contract Costs," by Mr. W. E. Harrison, F.C.W.A. Arranged by Birmingham District Society. Old Post Office Hotel, Milk Street, at 6.30 p.m.

Wolverhampton: "The Auditor and the Companies Act, 1948," by Mr. R. Glynne Williams, F.C.A., F.T.I.I. Arranged by Birmingham District Society. Molyneux Hotel, North Street, at 6.15 p.m.

NOVEMBER 17

Southend-on-Sea: Students' Lecturettes, at 10 a.m. "Calculation of Goodwill in Consolidated Accounts," by Mr. W. T. Dent, A.C.A., at 11.15 a.m. Arranged by London Students' Society, Southend Branch. Chamber of Trade, 33, Victoria Avenue.

NOVEMBER 20

Leeds: Mock Income Tax Appeal. Great Northern Hotel, at 6.15 p.m.

NOVEMBER 21

Middlesbrough: "Receivership," by Mr. T. D. R. Bensted, F.C.A., F.S.A.A. Arranged by Newcastle-upon-Tyne District Society. Café Royal, Linthorpe Road, at 6.30 p.m.

Swansea: A Mock Income Tax Appeal, with discussion. Arranged in conjunction with the Association of H.M. Inspectors of Taxes, Swansea Branch. Mackworth Hotel, at 6.45 p.m.

NOVEMBER 22

Bristol: Dinner.

Coventry: Discussion Group. Arranged by Birmingham District Society. Chamber of Commerce, Queen Victoria Road, at 7.30 p.m.

NOVEMBER 23

Birmingham: "Profits Tax (with special reference to groups of companies)," by Mr. L. A. Hall, A.C.A., A.S.A.A. Law Library, Temple Street, at 6.15 p.m.

Manchester: "Economics," by Mr. D. J. Coppock, B.A.(ECON.). Students' meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Manchester: "Income Tax," by Mr. N. D. B. Robinson, A.S.A.A. Students' meeting (Intermediate). Estate Exchange, Fountain Street, at 6.30 p.m.

Newcastle-upon-Tyne: "Group Accounts," by Mr. R. Glynne Williams, F.C.A., F.T.I.I. 52, Grainger Street, at 6.15 p.m.

Plymouth: Dinner.

NOVEMBER 26

Luton: "Companies Act, 1948," by Mr. T. W. South, M.A., LL.B., Barrister-at-law. Arranged by London Students' Society, Luton and Bedford Branch and the Bedford, Luton and Northampton District Society of Certified Accountants. Public Library Lecture Hall, at 5.30 p.m.

NOVEMBER 29

Newcastle-upon-Tyne: "Schedule D Computations," by Mr. V. S. Hockley, B.COM., C.A. 52, Grainger Street, at 6.15 p.m.

NOVEMBER 30

Birmingham: "Pay-As-You-Earn," by Mr. E. Cowell, H.M. Inspector of Taxes. Law Library, Temple Street, at 6.15 p.m.

Manchester: "Economics," by Mr. D. J. Coppock, B.A.(ECON.). Students' meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Manchester: "Income Tax," by Mr. N. D. B. Robinson, A.S.A.A. Students' meeting (Intermediate). Estate Exchange, Fountain Street, at 6.30 p.m.

Stockton-on-Tees: "Costing," by Mr. V. S. Hockley, B.COM., C.A. Arranged by Newcastle-upon-Tyne District Society. Spark's Café, at 6.30 p.m.

DECEMBER 3

London: "Income Tax on Land and Buildings," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. Arranged by Students' Society. Incorporated Accountants' Hall, at 6 p.m.

DECEMBER 4

Dudley: Lecture by Professor D. Cousins, B.COM., A.C.A. Arranged by Birmingham District Society. Dudley and Staffordshire Technical College, Broadway, at 7 p.m.

Leeds: "Standard Costing (with particular reference to the fixing of Standards)," by Mr. J. W. Fewlass, A.C.W.A., A.C.I.S. Hotel Metropole, at 6.15 p.m.

DECEMBER 5

Nottingham: "Executorship Law," by Mr. A. E. Langton, LL.B., F.C.A., F.S.A.A. Reform Club, Victoria Street, at 6.30 p.m.

Swansea: "Company Law with reference to the Rules of Prospectus," by Mr. E. R. Nash, B.A., LL.B. Arranged by Students' Section. Central Library, Alexandra Road, at 6.45 p.m.

DECEMBER 6

Belfast: Annual ball. Belfast Castle.

Coventry: "Company Law and Accounts," by Mr. A. E. Langton, LL.B., F.C.A., F.S.A.A. Arranged by Birmingham District Society. Chamber of Commerce, Queen Victoria Road, at 7.30 p.m.

DECEMBER 7

Birmingham: "The Holding Company and some of its Problems," by Professor D. Cousins, B.COM., A.C.A. Law Library, Temple Street, at 6.15 p.m.

Manchester: "Economics," by Mr. D. J. Coppock, B.A.(ECON.). Students' meeting (Final). Incorporated Accountants' Hall, 90, Deansgate, at 6.30 p.m.

Manchester: "Income Tax," by Mr. N. D. B. Robinson, A.S.A.A. Students' meeting (Intermediate). Estate Exchange, Fountain Street, at 6.30 p.m.

Plymouth: "Practical Auditing Problems," by Mr. S. G. T. Holmes, F.S.A.A. Law Chambers, Princess Square, at 6 p.m.

Preston: "Back Duty Investigations," by Mr. J. W. Walkden, A.C.A., A.S.A.A. Preston and County Catholic Club, Winckley Square, at 7.30 p.m.

DISTRICT SOCIETIES AND BRANCHES

SCOTTISH BRANCH

A MEETING OF THE COUNCIL OF THE SCOTTISH Institute of Accountants, the Scottish Branch of the Society, was held in Glasgow on October 4. Mr. P. G. S. Ritchie presided. The secretary, Mr. James Paterson, reported the results of the May examinations and the numbers expected to sit in November. The majority of the Final candidates are taking Part I. Consideration was given to the better training of candidates and attendance at classes. The assistant secretary, Mr. J. Hawthorne Paterson, reported on the tuition classes of the Students' Society.

GLASGOW STUDENTS' SOCIETY

The annual meeting of the Glasgow Incorporated Accountants' Students' Society was held on August 31. Mr. Robert Fraser, F.S.A.A., presided over a good attendance, including Mr. P. G. S. Ritchie, F.S.A.A., President of the Scottish Branch, Mr. John Stewart, F.S.A.A. (Member of Scottish Council), and Mr. J. Hawthorne Paterson, F.S.A.A., hon. secretary of the Students' Society. The report of the committee showed that a considerable amount of voluntary tuition work had been done during the year, and the meeting thanked the younger qualified members who had generously devoted time to this. Arrangements were made for study for the ensuing session.

NORTHERN IRELAND

AT A GENERAL MEETING OF THE INCORporated Accountants' Belfast and District Society held on October 19, it was resolved that the name of the District Society be altered to "The Incorporated Accountants' District Society of Northern Ireland."

HULL

MR. A. MACDONALD, F.S.A.A., HAS BEEN elected President. The Vice-Presidents are Mr. R. L. Davy, F.S.A.A., and Mr. H. S. Kennington, F.S.A.A.

LONDON STUDENTS' SOCIETY

A LUTON AND BEDFORD BRANCH OF THE London Students' Society has recently been formed. Members living in this area who have not received details of the autumn programme of lectures are asked to communicate with Mr. T. R. Keens, A.C.A., A.S.A.A., Messrs. Keens, Shay, Keens & Co., 11, George Street West, Luton.

MANCHESTER

STUDENTS' COURSE

A STUDENTS' COURSE ARRANGED BY THE Manchester and District Society was held from September 21-24 at Hulme Hall, Manchester. It was attended by about 80 students and its success may be measured by the fact that though eleven lectures were arranged for both Final and Intermediate candidates, students invariably continued questioning the lecturers long after the finish of each lecture session. Mr. A. E. Langton lectured on the Companies Act, 1948, and on various aspects of accountancy; Mr. T. W. South gave three legal lectures; Mr. A. H. Potter, H.M. Inspector of Taxes, took students through the law of taxation; Mr. A. R. Ilersic made economics easy; Mr. D. A. Lewis of the Midland Bank lectured on Executorship, Mr. S. C. Roberts on Costing and Mr. J. D. Nightingirl on machine and punched card accounting. The President of the District Society, Mr. A. T. Eaves, gave students the benefit of his considerable practical experience in insolvency matters. In addition to the more serious work lighter moments were provided by an informal concert on Saturday night and an equally informal Brains Trust, when questions ranged from ethics to economics. The Warden of Hulme Hall, the Rev. J. Flitcroft, gave the address at the chapel service on Sunday. Guests at the course included the honorary secretaries of the Incorporated Accountants' District Societies of North Lancashire and North Staffordshire. The success of the course and its enjoyment by guests, lecturers and students were again largely due to the efforts of Mr. C. Yates Lloyd.

NORTH LANCASHIRE

THE ANNUAL MEETING WAS HELD AT PRESTON on September 14. The report and accounts were adopted and amendments to the rules were approved. The retiring members of the committee were re-elected, with the addition of Mr. E. Smith (Blackburn) and Mr. J. T. Coope (Blackpool).

At a subsequent meeting of the committee, Mr. John Wareing was re-elected President, Mr. P. F. Pierce and Mr. H. Ryden vice-presidents, Mr. W. G. Hanniball treasurer, and Mr. K. R. Stanley secretary.

NORTH STAFFORDSHIRE

ANNUAL REPORT

THE MEMBERSHIP TOTALS 176, INCLUDING 21 Fellows, 59 Associates and 96 students. The total in 1950 was 165.

Seven lectures were held during the year. Invitations were extended to other professional bodies, and our members and students were invited to attend meetings of other bodies.

SHEFFIELD

AT THE ANNUAL MEETING OF THE SHEFFIELD Society on September 28, Mr. W. H. Higginbotham, F.S.A.A., was installed as President by the retiring President, Mr. J. W. Richardson, F.S.A.A. Mr. Richardson observed that Mr. Higginbotham was President of the Sheffield Chamber of Commerce and a member of the Council of the Society of Incorporated Accountants.

Mr. W. E. Moore was appointed Vice-President and Mr. C. S. Garraway, Mr. C. E. Gray, Mr. J. M. Drummond and Mr. Percy Toothill were elected to fill the four places on the committee.

Mr. A. Graves, F.S.A.A., was appointed hon. auditor. The President thanked him for his work in the accountancy section of the city library, in organising the joint library of the Institute and the Society in Sheffield, and as lecturer in accountancy in the joint Saturday morning classes.

Mr. J. W. Richardson, F.S.A.A., was appointed to the office of hon. secretary, which he had formerly held for some years. Mr. C. H. Kershaw, F.S.A.A., was thanked for his excellent work as hon. secretary whilst Mr. Richardson was President, and appointed to the new office of assistant secretary.

SOUTH WALES & MONMOUTHSHIRE

THE AUTUMN MEETING OF THE GOLFING Society was held at the Newport Golf Club on October 2. The morning medal round was won by N. C. Pallot, with S. W. D. Nash second. In the afternoon Stableford foursomes, A. G. Pallot and N. C. Pallot tied for first place with H. Andrews and W. B. Clark. Thirty-six members and visitors were present.

PERSONAL NOTES

Messrs. G. S. Clarke, Armson & Co., Incorporated Accountants, London, E.C.2, announce with regret that Mr. Gordon S. Clarke, F.S.A.A., has retired from the partnership. The practice is being carried on by the remaining partner, Mr. W. E. Hicks, A.S.A.A.

Messrs. Harper, Kent & Wheeler, Incorporated Accountants, announce that they have taken into partnership at Llandilo their managing clerk, Mr. E. R. Jones, A.S.A.A. The practice will be carried on under the style of Jones, Kent & Wheeler, Incorporated Accountants. The firm will be distinct from the firm of Harper, Kent and Wheeler, Incorporated Accountants, at Shrewsbury.

Mr. H. S. Fielden, A.S.A.A., has been appointed Borough Treasurer of Middleton, Lancashire.

Mr. H. C. Fletcher, A.S.A.A., practising under the style of Gibson & Fletcher, Incorporated Accountants, Mullingar, has taken into partnership Mr. R. T. Poole, A.S.A.A., who has been a member of this staff for some years.

Mr. T. P. Walker, A.S.A.A., has been appointed Chief Accountant to the Public Works Department of the Government of Tanganyika.

The partnership of Messrs. Fred A. Fitton, Wilson, Smith & Martin, Incorporated Accountants, has been dissolved. Mr. F. O. Wilson, F.S.A.A., and Mr. F. A. Martin, F.S.A.A., are continuing to practise at the same addresses in Manchester and Sheffield under the style of Wilson, Martin & Co., Incorporated Accountants. Mr. Henry Smith, F.S.A., has entered into partnership with Messrs. J. D. Hamer & Co., and their practice will be carried on in the name of Henry Smith, Hamer & Co., Incorporated Accountants, at 1, Chancery Place, Manchester 2, and at a new office, Larkhill Buildings, St. George's Road, Bolton. Mr. P. D. Smith, A.S.A.A., has been taken into partnership in the latter firm.

Messrs. W. G. Hawson, Wing & Co., Chartered Accountants, Sheffield, announce that Mr. G. R. Littlewood, A.C.A., A.S.A.A., Mr. H. Woodruff, A.C.A., and Mr. F. Hyatt, A.C.A., A.S.A.A., have joined the firm as partners.

REMOVALS

Messrs. A. F. Roberts & Co., Incorporated Accountants, announce a change of address to Atlas Building, 9, Clare Street, Bristol, 1.

Messrs. Kemp, Chatteris & Co. announce that their address is now St. Swithin's House, 37, Walbrook, London, E.C.4.

Messrs. Whitmarsh, Kitchen & Co., Incorporated Accountants, have removed to 6, Cathedral Lane, Truro, Cornwall.

Mr. H. J. Wellden, Incorporated Accountant, has transferred his office to 48, High Street, Kingston-on-Thames, Surrey.

Messrs. Thomas Eaves & Co. have changed their address to 140, The Albany, Old Hall Street, Liverpool, 3.

Mr. H. T. Gore Gardiner, Incorporated Accountant, has removed his office to 7, Lemsford Road, St. Albans, Herts.

OBITUARY

CHARLES AUGUSTINE HOLLIDAY

We record with regret that Mr. Charles A. Holliday, F.S.A.A., died on September 26, at the age of 63. Mr. Holliday became a member of the Society in 1921, and in 1927 commenced public practice in the City of London as a partner in Messrs. Holliday, Robertson & Co., later known as C. A. Holliday & Co. During and after the war he served in the Chemical Inspection Department of the Ministry of Supply. He died at Bickley, Kent, where he had been living in retirement for the last two years.

JAMES ALBERT HULME

We have learned with deep regret of the sudden death on October 13 of Mr. James A. Hulme, senior partner of Messrs. Jas. A. Hulme & Co., Manchester. He was admitted to membership of the Society of Incorporated Accountants in 1908, and commenced practice three years later.

Mr. Hulme was an active member of the Manchester District Society, being a member of the Committee from 1923 till the date of his death. He held the offices of honorary treasurer 1925-27, vice-president 1927-29, and president 1929-31.

INSTITUTE OF INTERNAL AUDITORS

THE LONDON CHAPTER OF THE INSTITUTE of Internal Auditors (New York) has arranged the following programme for the 1951-52 season. Each meeting will be preceded by either lunch or dinner and, after a brief introduction of the subject by the speaker, will be followed by a general round-the-table discussion. All meetings will be held at the Kingsley Hotel, Bloomsbury Way, London, W.C.1.

Nov. 7. "Accounting for Inflation—Theory and Practice." R. A. Reid, C.A., Manager of the Internal Audit Department of the Philips Group of Companies.

Dec. 5. "Internal Auditing in Practice—The Scope of My Job." R. C. Bedford, A.C.A., Chief Accountant of the National Cash Register Co., Ltd.; F. G. Hobson, A.C.A., Internal Audit Manager, Harrods, Ltd.; W. J. Smith, C.A., Chief Internal Auditor, British Overseas Airways Corporation.

Jan. 2. "The Cost of Making a Little More—How to Measure It." D. Solomons, B.COM., C.A., Lecturer in Accounting, London School of Economics.

Feb. 6. "Techniques of Organisation and Methods Work." J. Mills, A.C.I.S., M.I.I.A., Assistant Comptroller, J. Lyons and Co., Ltd.

March 5. "Internal Audit Programme for Stock Control." J. O. Davies, F.C.A., A.C.W.A., Chief Internal Auditor of the National Coal Board; G. E. Hindshaw, Internal Auditor, Goodyear Tyre and Rubber Co. (Great Britain), Ltd.

April 2. "Operating Reports for Management." F. A. Callaby, F.C.W.A., General Divisional Accountant, The Westinghouse Brake & Signal Co., Ltd.

May 7. "Some Economic Problems of the Day." C. L. Paine, B.COM., Economic Adviser, Courtaulds, Ltd.

June 4. Annual General Meeting.